



Vestavia Hills
Board of Zoning Adjustment Agenda
September 21, 2023
6:00 PM

1. Roll Call
2. Approval Of Minutes
3. BZA-23-19 **Allison and Jeff Phillips** are requesting a **Side Setback Variance** for the property located at **1909 Mission Road**. The purpose of this request is to reduce the side setback to 5' in lieu of the required 15', to cover the existing porch. The property is owned by Allison and Jeff Phillips and is zoned **Vestavia Hills R-2**.
4. BZA-23-20 **Hind Lal** is requesting a **Variance for Location of Fence in the Front Setback** for the property located at **1149 Mayland Lane**. The purpose of this request is to build a small fence in the front setback. The property is owned by Hind Lal and is zoned **Vestavia Hills R-2**.
5. BZA-23-21 **Wedgworth Construction** is requesting a **Front Setback Variance** for the property located at **3120 Midland Drive**. The purpose of this request is to reduce the front setback to 30' in lieu of the required 40', to build a house. The property is owned by Wedgworth Construction and is zoned **Vestavia Hills R-4**.
6. BZA-23-22 **Vestavia 31 RE, LLC** is requesting **Multiple Variances** for the property located at **1467 Montgomery Highway**. The purpose of this request is to build a commercial structure. The property is owned by Vestavia 31 RE, LLC and is zoned **Vestavia Hills B-3**.
7. BZA-23-23 **Amanda and James Woods** are requesting a **Front Setback Variance** for the property located at **2100 Chestnut Road**. The purpose of this request is to reduce the front setback to 15' in lieu of the required 50', to add a roof to the existing terrace. The property is owned by Amanda and James Woods and is zoned **Vestavia Hills R-3**.
8. Time Of Adjournment

CITY OF VESTAVIA HILLS
BOARD OF ZONING ADJUSTMENT
MINUTES

August 17, 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
Loring Jones, III
Stephen Greer
Thomas Parchman
Tony Renta
Ryan Rummage, Alt

MEMBERS ABSENT:

Michael Fliegel, Alt

OTHER OFFICIALS PRESENT:

Jack Wakefield, Planner/GIS

APPROVAL OF MINUTES

The minutes of July 20, 2023 were presented for approval.

MOTION Motion to dispense with the reading of the minutes of July 20, 2023 was made by Mr. Jones and 2nd was by Mr. Renta. Motion as carried on a voice vote as follows:

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

VARIANCE FOR LOCATION OF FENCE

BZA-23-11 **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**.

Mr. Wakefield explained that the request is to build a detached storage building within the side setback.

Sanford Hardy, 3422 River Mist Circle, was present for the case and stated the septic system forces the footprint of the storage building into the side setback. The topography of the lot also limits buildability.

Chairman Rice asked the applicant to point out on the drawing where the septic system resides on the lot.

The applicant located the system on the screen, to Chairman Rice's satisfaction.

Motion to APPROVE 2' Side Setback Variance to reduce the setback to 13' in lieu of the required 15', for the property located at 3422 River Mist Circle was made by Mr. Jones and 2nd was by Mr. Renta. Motion was carried on a roll call vote as follows:

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

At 6:13 PM, Mr. Jones made a motion to adjourn. The meeting adjourned at 6:13 PM.

Jack Wakefield,
Planner/GIS



VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

September 21, 2023

AGENDA ITEM

BZA-23-19 **Allison and Jeff Phillips** are requesting a **Side Setback Variance** for the property located at **1909 Mission Road**. The purpose of this request is to reduce the side setback to 5' in lieu of the required 15', to cover the existing porch. The property is owned by Allison and Jeff Phillips and is zoned **Vestavia Hills R-2**.

BACKGROUND

10' Side Setback Variance to Reduce the Setback to 5' in Lieu of the Required 15'.

PLANNER'S REVIEW/RECOMMENDATION

The applicant is seeking rear and side setback variances to cover a portion of the existing deck. The applicants contend the corner lot and the narrowness of the lot causes a hardship. The deck is currently in the back corner of the lot. There is a portion of the deck that overhangs an easement. In coordination with staff, the applicant has agreed to stabilize the deck at the easement line. In case a utility company needs access to that portion of the lot, the deck would still be functioning. The roofed area of the deck will go up to that easement line with no overhang. This property is zoned R-2.

ATTACHMENTS

1. Application
2. Survey
3. Proposed Drawing
4. Rendering
5. Engineering Review
6. Owners Affidavit

Jack Wakefield
City Planner



BZA-23-19

Variance and Special Exception Application

Status: Active

Submitted On: 7/18/2023

Primary Location

1909 MISSION RD
VESTAVIA HILLS, AL 35216

Owner

JEFFERY PHILLIPS
MISSION ROAD 1909
VESTAVIA HILLS, AL 35216

Applicant

 Allison Phillips

 205-639-7070

abrowning@hollywoodpoolandspa.com

 1909 MISSION ROAD
Vestavia Hills, Alabama
35216

Agenda Information

Agenda Scheduling

August 2023

Comments/Delay/Explanation

Applicant Information

I am filling this out as the

Owner

Billing/Responsible Party

Name

JEFFERY PHILLIPS

Phone #

205-965-6472

Address

1909 MISSION ROAD

City/State/Zip

VESTAVIA HILLS, AL 35216

Email

JPHILLIPS@HOLLYWOODOUTDOORLIVING.COM

Subject Property Information

Subject Property Address

1909 MISSION ROAD

Legal Description of Subject Property [?](#)

LOT 8-A SOUTHRIDGE MAP BOOK 173 PAGE 33

REASONS FOR REQUEST

Front Setback Variance

☐

Rear Setback Variance

☒

Setback Required*

15'

Setback Requested*

5' (Up to Easement)

Side Setback Variance

☒

Setback Required*

15'

Setback Requested*

2'

Other Setback Variance

☐

Lot Area Variance

☐

Lot Width Variance

☐

Variance for location of a fence.

☐

Sign Code Variance

☐

A decision of the Zoning Official which the applicant believes to be contrary to the meaning of the Zoning Ordinance.

☐

Other

☐

ZONING

Vestavia Hills Zoning for the subject property is

R-2

PROJECT

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

To install a roof over a detached existing composite deck to make it more functional and provide protection from the elements. Due to corner lot we have no other place to build.

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).*

To install a roof over a detached existing composite deck to make it more functional and provide protection from the elements. Due to corner lot we have no other place to build.

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:*

We have no other place in the rear of our property to build a roof.

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:*

No, the deck is existing.

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:*

No, the deck is existing.

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:*

This would increase property value all around.

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

This is an existing deck that we as a family would like to enjoy.

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

This is an existing deck, that we are seeking to improve our life outdoors.

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 agree

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



Jeffery Phillips

Jul 18, 2023

ASP	ASPHALT
BULD	BUILDING
CALC	CALCULATED
MEAS	MEASURED
CH	CHORD
LNG	LONG CHORD
Δ	DEFLECTION
ESMT	DELTA
HW	EASEMENT
MN	HEADWALL
MIN	MINIMUM
MANH	MANHOLE
OVERHANG	OVERHANG
POR	PORCH
R	RADIUS
R.O.W.	RIGHT OF WAY
SAN	SANITARY
STM	STORM
UTILITY	UTILITY
AC	ACRES
S.F.	SQUARE FEET
Q	CENTERLINE
A/C	AIR CONDITIONER
$\circ$	POLE
$\sim$	ANCHOR
$\sim$ X $\sim$	FENCE
$\sim$ X $\sim$	OVERHEAD UTILITY
PMT	PAVEMENT
W/TAN	WITH TANGENT
RES	RESIDENCE
RIGHT	LIGHT
COV	COVERED
	DECK
	CONCRETE
	WALL
	COLUMN

TO WHOM IT MAY CONCERN!

A SUPPORT BEAM WILL BE INSTALLED UNDER THE EXISTING DECK, SET BACK BEYOND THE EASEMENT LINE.

THE PROPOSED ROOF STRUCTURE
WILL NOT EXTEND BEYOND THE EASEMENT

Strong Weekly
Hudson Inst. of me.

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 8-A, RESURVEY OF LOT 8 FOURTEENTH ADDITION TO VESTAVIA HILL'S AS RECORDED IN MAP BOOK 68, PAGE 67 AND SUBDIVISION OF ACREAGE LOCATED IN THE N.W. 1/4 OF THE S.W. 1/4 OF SECTION 30, TOWNSHIP 18 SOUTH, RANGE 2 WEST, as recorded in Map Volume 173, Page 33, in the Office of the Auditor of Probate, Jackson County, Ark., at this date.

rights-of-way, 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 wires which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, (visible on the surface) on or over said premises except as shown; that there are no encroachments on said lot except as shown and that improvements are located as shown above. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief; according to my survey of AUGUST 7, 2023. Survey invalid if not sealed in red

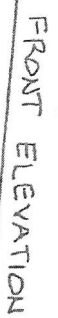
"Property Boundary Survey"

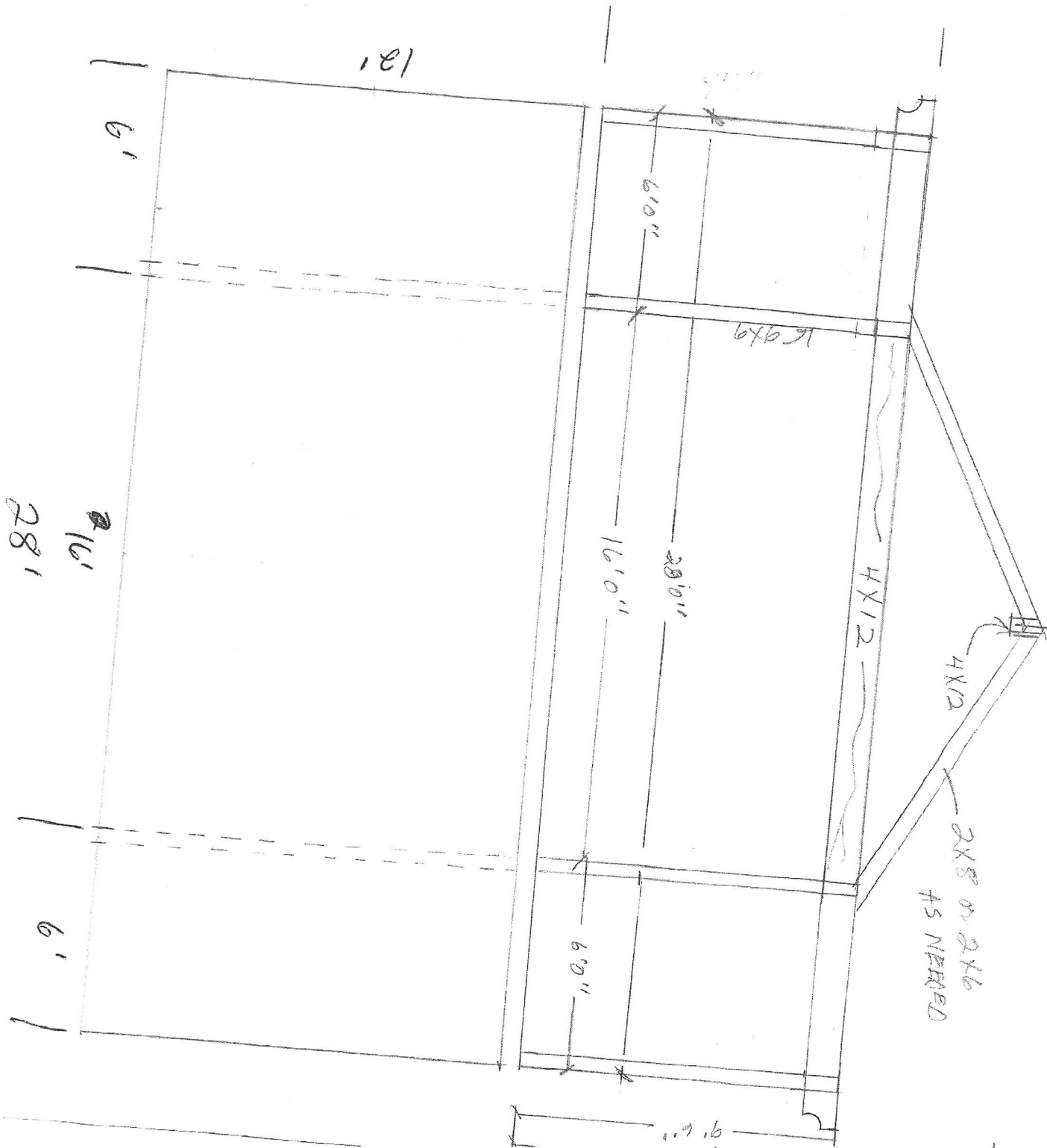
WINWARD LANE
(MAP SECOND STREET)

SECOND STREET
ASPHALT

Page 11 of 71

BY _____ CKD _____











BZA-23-19

Engineering Review

Variance and Special Exception Application

Status: Complete

Became Active: Aug 30, 2023

Assignee: Christopher Brady

Completed: Sep 7, 2023

Applicant

Allison Phillips
abrowning@hollywoodpoolandspa.com
1909 MISSION ROAD
Vestavia Hills, Alabama 35216
205-639-7070

Primary Location

1909 MISSION RD
VESTAVIA HILLS, AL 35216

Owner:

JEFFERY PHILLIPS
1909 MISSION ROAD VESTAVIA HILLS, AL
35216

Comments

Christopher Brady, Sep 1, 2023

1) It appears the existing deck encroaches within a sanitary sewer easement. I recommend applicant a) confirm with Jefferson County Environmental Services that this is an active sewer line and b) determine if a portion of the easement might could be vacated. If the easement is to remain, I would request the applicant to provide a letter of concurrence from Jefferson County Environmental Services that the existing deck can be "modified" as proposed without being considered a further encroachment.

Allison Phillips, Sep 1, 2023

If requested we are willing to remove 22" of the existing deck that is an encroachment. The deck is 3' 2" off the property line right now. We propose to add a new beam 5' 2" off the property line to be in compliance. The proposed roof will be a minimum of 5' off property line and will not extend into the easement.

Christopher Brady, Sep 7, 2023

Thank you. To minimize future concerns related to sewer easement encroachment, I would recommend removal of the portions of the existing deck that overlap. We can discuss and confirm as you request building permit.

Additionally, I have uploaded today a preliminary impervious areas review. This is approximate

based on GIS and submitted survey information. Please recheck my numbers with any measurements you can provide. But, based on these preliminary numbers, existing conditions (house footprint, driveway, pool decking, etc) exceed the 30% impervious area requirement.

Modifications may need to be considered to allow the additional roof being added to the open deck area. This may consist of modifications to walkways, driveway, or pool decking to allow rainwater to absorb into the ground. As you move forward with permit requests, these measurements need to be verified and modifications to meet City impervious area requirements will need to be considered as part of permit issuance.

Please let me know if we can discuss or if I can provide additional information.



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: 1909 Mission Road, 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 Shelby

Given under my hand and seal

this 18th day of July, 2023.

[Signature]
Notary Public

My commission expires 30th day of October, 2023.

My Commission Expires
October 30, 2023



VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

September 21, 2023

AGENDA ITEM

BZA-23-20 **Hind Lal** is requesting a **Variance for Location of Fence in the Front Setback** for the property located at **1149 Mayland Lane**. The purpose of this request is to build a small fence in the front setback. The property is owned by Hind Lal and is zoned **Vestavia Hills R-2**.

BACKGROUND

Variance for Location of Fence in the Front Setback.

PLANNER'S REVIEW/RECOMMENDATION

Applicant is seeking a variance for the location of a fence in the front setback. The fence is a short, decorative fence that extends to the edge of the front property line from the side retaining walls on each side lot line. The applicant contends the absence of a back yard prevents a safe space for the children of the applicant to play. This has been an existing fence for several years and have had no neighbors complain regarding the location of the fence. The Building and Safety Department recently cited the applicant that this decorative fence was in violation of the Zoning Code. The property is zoned R-2.

ATTACHMENTS

1. Application
2. Survey
3. Picture 1
4. Picture 2
5. Picture 3
6. Owners Affidavit

Jack Wakefield
City Planner



BZA-23-20

Variance and Special Exception Application

Status: Active

Submitted On: 7/20/2023

Primary Location

1149 MAYLAND LN
VESTAVIA HILLS, AL 35216

Owner

Hind Lal and Ragini Verma
Mayland Lane 1149 Mayland
Ln Vestavia Hills, AL 35216

Applicant

 Hind Lal

 267-977-2076

 hindbiology@gmail.com

 1149 Mayland Ln
Vestavia Hills, AL 35216

Agenda Information

Agenda Scheduling

September 2023

Comments/Delay/Explanation

Applicant Information

I am filling this out as the

Owner

Billing/Responsible Party

Name

Hind Lal

Phone #

2679772076

Address

1149 Mayland Lane

City/State/Zip

Vestavia Hills, AL 35216

Email

hindbiology@gmail.com

Subject Property Information

Subject Property Address

1149 Mayland Lane Vestavia Hills, AL
35216

Legal Description of Subject Property ?

Single House

REASONS FOR REQUEST

Front Setback Variance

☐

Rear Setback Variance

☐

Side Setback Variance

☐

Other Setback Variance

☐

Lot Area Variance

☐

Lot Width Variance

☐

Variance for location of a fence.

☒

Details ?

While chasing play balls, our two kids (4-year-old and 8-year-old boys) often ran into the road. Realizing the high risk to their safety, we decided to install the fence in the front yard. We hired fence installation professionals for this job; however, they soon communicated that front yard fences are not allowed in Vestavia Hills and suggested installing decorative pickets. We brought decorative pickets online and applied by ourselves. As you see in the pictures submitted with this application, these decorative pickets are small barriers (only two feet tall) and are not comparable to traditional fence boards. We purchased the house in November 2019 and applied these decorative pickets soon after (early 2020). The neighborhood highly praised it. There was absolutely no complaint/notice from the community or city officials. After several years, we recently (May 2023) received this notice of fence violation. Considering our safety concerns regarding the risk of kids running over on the road, we are applying this request for a variance.

Thanks much for giving thoughtful consideration to our request.

Best Regards,

Hind and Ragini Verma

Sign Code Variance

☐

A decision of the Zoning Official which the applicant believes to be contrary to the meaning of the Zoning Ordinance.

☐

Other

☐

ZONING

Vestavia Hills Zoning for the subject property is

1149 Mayland Lane, Vestavia Hills, AL
35216

PROJECT

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

While chasing play balls, our two kids (4-year-old and 8-year-old boys) often ran into the road. Realizing the high risk to their safety, we decided to install the fence in the front yard. We hired fence installation professionals for this job; however, they soon communicated that front yard fences are not allowed in Vestavia Hills and suggested installing decorative pickets. We brought decorative pickets online and applied by ourselves. As you see in the pictures submitted with this application, these decorative pickets are small barriers (only two feet tall) and are not comparable to traditional fence boards. We purchased the house in November 2019 and applied these decorative pickets soon after (early 2020). The neighborhood highly praised it. There was absolutely no complaint/notice from the community or city officials. After several years, we recently (May 2023) received this notice of fence violation. Considering our safety concerns regarding the risk of kids running over on the road, we are applying this request for a variance.

Thanks much for giving thoughtful consideration to our request.

Best Regards,

Hind and Ragini Verma

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).*

While chasing play balls, our two kids (4-year-old and 8-year-old boys) often ran into the road. Realizing the high risk to their safety, we decided to install the fence in the front yard. We hired fence installation professionals for this job; however, they soon communicated that front yard fences are not allowed in Vestavia Hills and suggested installing decorative pickets. We brought decorative pickets online and applied by ourselves. As you see in the pictures submitted with this application, these decorative pickets are small barriers (only two feet tall) and are not comparable to traditional fence boards. We purchased the house in November 2019 and applied these decorative pickets soon after (early 2020). The neighborhood highly praised it. There was absolutely no complaint/notice from the community or city officials. After several years, we recently (May 2023) received this notice of fence violation. The decorative pickets are not permanent. We will remove the decorative pickets once the kids grow up and understand the risk of running over the road. We don't have a backyard, so the front yard is the only place for kids to play. Considering our safety concerns regarding the risk of kids running over on the road, we are applying this request for a variance.

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:*

NA

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:*

Some houses in the neighborhood have decorative pickets in the front yard.

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:*

NA

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:*

The neighborhood highly praised our decorative pickets.

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

The real hardship is the safety concerns regarding the risk of kids running over on the road.

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

Yes, this is minimum variance and will not hinder the legal use of the land, building, or structure.

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.*

The decorative pickets are not permanent. We will remove the decorative pickets once the kids grow up and understand the risk of running over the road. We don't have a backyard, so the front yard is the only place for kids to play.

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



Hind Lal

Jul 19, 2023

S2' Shadowbox Straight
6 feet tall
1 single gate
(IN REAR)

DECORATIVE PICKET
FENCE PANELS

Mayland Avenue

①	iron boundary marker	①	utility pole
②	copper pipe fnd	②	fire hydr.
③	power box	③	urea
④	sapped pipe fnd.	④	TW/rel. box
⑤	water valve	⑤	offset cross
⑥	guy anchor	⑥	commencing point
⑦	55' steel set 1/250'	⑦	gas valve
⑧	Drain Manhole	⑧	Sanitary manhole
⑨	Test. Manhole	⑨	Sign
⑩	measured dim	⑩	planted dim.
⑪	water meter	⑪	gas meter
⑫	power meter	⑫	Sign

—●— chain link fence

—GG— gas line

—W— water line

——— overhead utility line

——— wire fence

——— wood fence

——— capter line









**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: 1149 Mayland Lane, 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: _____

Owner Signature/Date

07-19-2023

STATE OF ALABAMA

COUNTY OF JEFFERSON

Given under my hand and seal

this 19th day of July, 2023

Patricia Ann Chandler
Notary Public

My commission expires 18 day of September, 2026.



VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

September 21, 2023

AGENDA ITEM

BZA-23-21 **Wedgworth Construction** is requesting a **Front Setback Variance** for the property located at **3120 Midland Drive**. The purpose of this request is to reduce the front setback to 30' in lieu of the required 40', to build a house. The property is owned by Wedgworth Construction and is zoned **Vestavia Hills R-4**.

BACKGROUND

10' Front Setback Variance to Reduce the Setback to 30' in Lieu of the Required 40'.

PLANNER'S REVIEW/RECOMMENDATION

The applicant is seeking a front setback variance to build a new house. The applicant contends the steep topography in the rear of the lot causes a hardship. The slope in the rear causes the house to be built into the front setback. The adjacent existing houses are pushed closer into the front setback because of the same rear topography. This property is zoned R-4.

ATTACHMENTS

1. Application
2. Drawing
3. Owners Affidavit

Jack Wakefield
City Planner



BZA-23-21

Variance and Special Exception Application

Status: Active

Submitted On: 8/21/2023

Primary Location

3120 MIDLAND DR
VESTAVIA HILLS, AL 35223

Owner

Wedgworth Construction Co
Crosshaven Drive 4154
Vestavia , AL 35243

Applicant

 Patrick Gilbert
 205-542-9940
 patrick@wedgworth.net
 4154 Crosshaven Drvie
4154 Crosshaven Drive
Vestavia, AL 35243

Agenda Information

Agenda Scheduling

September 2023

Comments/Delay/Explanation

Applicant Information

I am filling this out as the

Owner

Billing/Responsible Party

Name

Wedgworth Construction

Phone #

205-379-6054

Address

4154 Crosshaven Drive

City/State/Zip

Vestavia AL 35243

Email

patrick@wedgworth.net

Subject Property Information

Subject Property Address

3120 Midland Drive

Legal Description of Subject Property ?

28 00 15 1 013 005.000

REASONS FOR REQUEST

Front Setback Variance

☒

Setback Required*

Current 40' Setback

Setback Requested*

Change to 30' set back

Rear Setback Variance

☐

Side Setback Variance

☐

Other Setback Variance

☐

Lot Area Variance

☐

Lot Width Variance

☐

Variance for location of a fence.

☐

Sign Code Variance

☐

A decision of the Zoning Official which the applicant believes to be contrary to the meaning of the Zoning Ordinance.

☐

Other

☐

ZONING

Vestavia Hills Zoning for the subject property is

R-4

PROJECT

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

We are currently in the design phase for a new single family residence on this lot. Due to the angle front set back and the topography of the property we are requesting a variance for the front set back to have the ability to move the home forward and out of the stepp topography.

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).*

We are requesting a front set back varaince due to the hardship place on the lot for one being an angled front setback as well as the stepp topography on the rear 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:*

Yes the slope of the back of the property make it difficult and more expensive to construct a home.

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:*

Yes we understand that this variance does not give us any special privileges.

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:*

The granting of this variance should not create a hardship or nuisance to anyone else in the surrounding area.

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:*

The granting of this variance should not create a hardship or nuisance to anyone else in the surrounding area.

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

The granting of this variance should not create a hardship or nuisance to anyone else in the surrounding area.

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

Correct. At maximum we are requesting a 10' set back change.

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.*

The granting of this variance should not create a hardship or nuisance to anyone else in the surrounding area.

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

✓ Patrick Gilbert
Aug 21, 2023



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: 3120 MIDLAND DRIVE, 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:

 8/21/2023
Owner Signature/Date

STATE OF ALABAMA

COUNTY OF Jefferson

Given under my hand and seal
this 21 day of August, 2023.


Notary Public

My commission expires 25th day of April, 2025.





VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

September 21, 2023

AGENDA ITEM

BZA-23-22 **Vestavia 31 RE, LLC** is requesting **Multiple Variances** for the property located at **1467 Montgomery Highway**. The purpose of this request is to build a commercial structure. The property is owned by Vestavia 31 RE, LLC and is zoned **Vestavia Hills B-3**.

BACKGROUND

Multiple Variances. See Exhibit 1.

PLANNER'S REVIEW/RECOMMENDATION

The applicant is seeking several variances to build a commercial structure on Highway 31. The applicant contends the creek in the rear and the floodway cause a hardship. The back of the property abuts Patton Creek and at least half of the property is unbuildable due to that portion being within the floodway. Because of this extreme limitation, the applicant must receive these variances to build anything on this property. The developer of this site has met several times with City Staff on the technical aspects of this proposal. What is before the Board is the culmination of the staff input. This commercial development is the first step in the lower Highway 31 revitalization plan. Staff has heard from surrounding neighbors who support the request. This property is zoned B-3.

ATTACHMENTS

1. Application
2. Summary of Request
3. Existing Survey
4. Site Plan
5. Existing Conditions - Floodway
6. Buildable Area - Floodway
7. Waldos Chicken and Beer Parking Letter
8. Big Bad Breakfast Parking Letter
9. Owners Affidavit

Jack Wakefield
City Planner



BZA-23-22

Variance and Special Exception Application

Status: Active

Submitted On: 8/21/2023

Primary Location

1467 MONTGOMERY HWY
VESTAVIA HILLS, AL 35216

Owner

Vestavia 31 RE, LLC
Pump House Road 3009
Vestavia Hills, AL 35243

Applicant

 Chris Eckroate
 205-423-5082
chris.eckroate@caprineeng.com
 3 Office Park Circle
Suite 226
Birmingham, AL 35223

Agenda Information

Agenda Scheduling

September 2023

Comments/Delay/Explanation

Applicant Information

I am filling this out as the

Representative Agent

Billing/Responsible Party

Name

Chris Eckroate

Phone #

205-423-5082

Address

3 Office Park Circle, Suite 226

City/State/Zip

Birmingham, AL 35243

Email

chris.eckroate@caprineeng.com

Representing Attorney/Other Agent**Name**

Chris Eckroate

Phone #

205-423-5082

Address

3 Office Park Circle, Suite 226

City/State/Zip

Birmingham, AL 35243

Email

chris.eckroate@caprineeng.com

Subject Property Information**Subject Property Address**

1467 & 1459 Montgomery Hwy.

Legal Description of Subject Property

PIN#39-00-01-1-001-003.000 (1467 Montg. Hwy) MB79, PG 90 and PIN#39-00-01-1-001-002.001 (1559 Montg. Hwy) Lot 2-A, MB251, PG 91. Instr#2020-133949

REASONS FOR REQUEST**Front Setback Variance****Setback Required***

30'

Setback Requested*

15'

Rear Setback Variance

☐

Side Setback Variance

☐

Other Setback Variance

☐

Lot Area Variance

☐

Lot Width Variance

☐

Variance for location of a fence.

☐

Sign Code Variance

☐

A decision of the Zoning Official which the applicant believes to be contrary to the meaning of the Zoning Ordinance.

☐

Other

☒

Details ?

See attachment for a complete list of variances being requested and explanations for each.

ZONING

Vestavia Hills Zoning for the subject property is

B-3

PROJECT

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

The project includes the development of 2 restaurant spaces and strip retail totaling over 13,500 sf of leasable area along with adjacent parking on a difficult lot with an unusual shape and bordered by US Highway 31 and Patton Creek, where this project will be unable to achieve the required parking count as strictly interpreted from the zoning ordinance and the developable lot area is heavily impacted by FEMA Floodway limits and 100-yr. water surface elevations. Without the requested variances, this project will be unable to locate the dumpsters in a way that they can be adequately served and placed out of the limits of floodway, the building will not have a reasonable location out of the floodway that maximizes the on-site parking count, the parking count would be negatively impacted by the landscape requirements on a site that is already challenged in that regard, and the site, which is currently vacant and in need of improvements, will be undevelopable without reasonable concessions to the applicable city zoning ordinance sections and in order to agree with the city's US Highway 31 Master Plan, which it recently adopted. See attachment for further explanation and details of each section of the zoning ordinance for which a variance is needed.

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 developable lot area is narrow and heavily impacted by FEMA Floodway limits and 100-yr. water surface elevation. Without the requested variances, this project will be unable to achieve the required parking count as strictly interpreted from the zoning ordinance, it will be unable to locate the dumpsters in a way that they can be adequately served and placed out of the limits of floodway, the building will not have a reasonable location out of the floodway that maximizes the on-site parking count, the parking count would be negatively impacted by the landscape requirements on a site that is already challenged in that regard, and the site, which is currently vacant and in need of improvements, will be undevelopable without reasonable concessions to the applicable city zoning ordinance sections and in order to agree with the city's US Highway 31 Master Plan, which it recently adopted. See attachment for further explanation and details of each section of the zoning ordinance for which a variance is needed.

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 long triangular shaped lot is squeezed by the ALDOT US Highway 31 R.O.W and Patton Creek with its developable area shrinking from its deepest of approximately 215' to approximately 100' as it flows from north to south along Patton Creek. Furthermore, it is heavily impacted by the FEMA Floodway and is severely limited in the available area needed for commercial buildings and parking area to sustain a viable project. See attachment for further explanation.

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:*

This site is extraordinarily challenged with the combination of flood elevations and floodway, property shape, and easements that affect it. To create a viable commercial project that will make every effort to comply with the spirit of the Highway 31 Master Plan, reasonable concessions to the applicable city zoning ordinance sections are necessary, which other properties along this corridor will be subject to as they re-develop. See attachment for further explanation.

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:*

This property does not have a buildable commercial area large enough to sustain a viable development without reasonable concessions to the applicable city zoning ordinances that other properties do not need for their sustainability, without which there is no other way to re-develop this property. See attachment for further explanation.

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:*

This project will make every effort to comply with the spirit of the Highway 31 Master Plan and the City's zoning ordinance. See attachment for further explanation.

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

The lot is heavily impacted by its narrow shape, FEMA Floodway limits, 100-yr. water surface elevations, and existing Jefferson County sanitary sewer ROW, none of which were created by the property owner.

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

Without the requested variances to the city's zoning ordinance, this property, which is currently vacant and in need of improvements, will be undevelopable without reasonable concessions to the applicable zoning ordinance sections and in order to agree with the spirit of the city's US Highway 31 Master Plan. See attachment for further explanation and details of each section of the zoning ordinance for which a variance is needed.

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.*

The use being requested for this property is permitted according to B-3 zoning.

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.

Representing Agent Signature ?

✓ Edward Christopher Eckroate
Aug 21, 2023

**ATTACHMENT TO VARIANCE REQUEST****Patton Place – A New Commercial Development**

1467 Montgomery Highway
Vestavia Hills

Request for Variances – Summary**Summary of Project**

The project is planned to contain approximately 13,523 sf+/- of leasable building area with approximately 5,183 sf of shops with the remainder being for two restaurants: 3,728 sf for Big Bad Breakfast (BBB) and 4,612 sf for Waldo's Chicken & Beer (WCB). Who these restaurants are is important to consider for the variance requests being made.

The site for this project has been vacant in recent years, where it was most recently developed as a hotel, but its most recent lease tenants have been Luckie's Pine Straw, Christmas tree sales, and used car sales overflow among others.

The subject property is shaped like a shallow wedge, where much of the open space while appearing to be developable, is actually ALDOT right-of-way. It has a developable depth of 215'+/- reducing as it runs southerly to about 100'+/-. Its rear boundary is within the limits of Patton Creek and a key bridge under U.S. Highway 31 is located at the southern tip of the property. The property is within the area of lower Highway 31 that is subject to routine flooding by Patton Creek.

This property is heavily impacted by the FEMA floodway limits and the 100-yr water surface elevation, where no amount of "fill" is allowed within the limits of floodway, including buildings, and all insurable structures are required to be built with finished floor elevations (FFE) at 12" above the 100-yr water surface elevation (WSE). Of the developable area on this property in the 215' deep zone, the floodway reduces that depth for building and "fill" placement by about 85', and in the 100' zone, the floodway fully impacts this developable area. The site is currently zoned B-3, where the front setbacks are 30'. Including all of these reductions in building area depths results in a very shallow and oddly shaped area where a building may be placed, and the resultant area (18,858 sf+/-) for buildings is just short of 24% of the property (79,689 sf+/-).

Within this buildable area, the buildings must be at least 12" above the 100-yr WSE, which means the footprints and the sidewalks and hardscapes accessing them must be built up from existing grade 45" (3.75') with walls so that they can achieve the minimum FFE. It should be noted that since no fill is allowed within the floodway limits, the handicap ramps and stairs needed to get to the built-up building must also occupy the available buildable area on this site.



ATTACHMENT TO VARIANCE REQUEST

Within the floodway limits, as long as no “fill” is placed, hardscapes and parking are permitted along with other greenspaces and open spaces. The site will require a 15’ minimum drive all the way around the building for service, parking, and fire truck access. Because of the hardscapes needed to access the buildings from the parking area, the resultant open spaces coming from the parking and access arrangement, and to provide more aesthetic views for patrons instead of a view of a major traffic arterial road, the buildings will have an aesthetic “front” facing Highway 31 but will also have eating and gathering spaces to the rear of the building, where it is intended most of the patrons will congregate if not inside the building itself. Warning signage that the parking areas at the rear of the property are within an area subject to routine flooding will be placed between the parking stalls and Patton Creek.

Explanation and List of Variances Requested

Sec. 8.1 Off-Street Parking

Based on the planned tenant mix of strip retail and restaurants, the total parking calculated for this development is either 128 or 144 total parking spaces required depending on the method for calculating the restaurant spaces as strictly calculated from Table 8.1. A shared parking model as defined in Table 8.1.1 of the zoning ordinance results in maximum required parking spaces of 123 and 139 respectively. The larger number of parking spaces of 139 required will be used for discussion. Reference the site plan that is part of the variance request submittal and the table titled Hours of Operation and Parking Demand By Use. Within the table it lists the parking requirements for each restaurant and their Hours of Operation and Peak Demand Hours during the week and through the weekend. Table 8.1.1 - Shared Parking Reduction by Use table in the zoning ordinance does not precisely consider the hours of operation and peak demand for the tenants.

It should be understood that the restaurant tenants each have peak demand times that differ from what is represented in Table 8.1.1. BBB’s peak demand times during the week are 7:30am – 10:00am and extend to 11:00am on the weekend. WCB’s peak demand times during the week are 11:30am – 1:00pm and extend to 2:00pm on the weekend. While it is hard to predict the peak hours of a retail tenant, it is speculated that most retail tenants, not being restaurants, will have a peak demand between the hours of 3pm – 6pm daily. In summary, the tenant mix has peak demand timeframes, not in conflict, throughout the day. Furthermore, the restaurant tenants are aware of the challenging parking situation on this site and are comfortable with the formal parking situation because of the peak demand timeframes they expect along with the potential “opportunity parking” that cannot be quantified, where patrons will improvise a place to park near the site.



ATTACHMENT TO VARIANCE REQUEST

In order to endorse and comply with the Highway 31 Master Plan that the city has approved, this site also has pedestrian access through existing hardscapes off-site to remain and with a new sidewalk to be constructed as part of this project that will tie to new sidewalks that are to be constructed as part of the city's plans for this area. This walkability will aid in easing the peak parking demands for this development.

Although the tenant mix and their peak demand time frames favor an increased reduction in the peak parking demand, and this is understood by the proprietors, this situation cannot be supported with a strict interpretation of the zoning ordinance and a variance to the off-street parking demand is requested.

Sec. 6.5, Table 6.5 B-3 District Area and Dimensional Regulations

The property is heavily impacted by the FEMA floodway limits and the 100-yr water surface elevation, where no amount of "fill" is allowed within the limits of floodway, including buildings, and all insurable structures are required to be built with FFEs at 12" above the 100-yr WSE. The existing buildable area (18,858 sf+/-) is very shallow and oddly shaped where a building may be placed is just short of 24% of the overall property area (79,689 sf+/-). A reduction in the front building setback from 30' to 15' will increase the buildable area by just over 24% bringing the total buildable area to just over 29% of the overall property (23,404 sf+/-), which is a significant increase in buildable area. Without an increase in the buildable area of this property, there is no viable development option for it.

Because the site is so heavily impacted by the FEMA floodway and 100-year water surface elevation, a variance to adjust the front building setback from 30' to 15' is requested.

Sec. 8.3.3 Off-Street Loading in Front Yard

Due to the site constraints previously explained in the project summary and the need to allow a large tractor-trailer (WB-50) delivery truck to access the site, one of the two required loading areas is positioned on the front of the proposed building to allow access for this size vehicle that would otherwise not be able to get in or out of the site. A second loading area that a medium sized tractor-trailer (WB-40) may utilize is positioned at the rear of the building.

Because one of the two required loading areas will be positioned in front of the building, a variance to this section is requested.

ATTACHMENT TO VARIANCE REQUEST**Sec. 8.3.2 Off-Street Loading Screening**

Because one of the two required loading areas will be positioned in front of the building within the front yard as explained above, it cannot be adequately screened as required by this section and a variance is requested.

Sec. 9.4.5.a Dumpster Location

Due to the site constraints previously explained in the project summary, that there are planned to be patio dining and gathering spaces at the rear of the property where the noxious odor would detract from the enjoyment of patrons, and to place the dumpsters and the required screening out of the floodway, it is necessary to place the dumpsters in the front of the primary building but facing away from the frontage and to the rear of the property.

Because this placement is not allowable with a strict interpretation of the zoning ordinance, a variance to this section is being requested.

Sec. 9.2.2.1 Frontage Landscaping

Due to the site constraints previously explained in the project summary and to maximize the off-street parking on this site, it is necessary to limit the amount of landscaping within the parking and vehicle drive areas of this site. There are areas within the floodway limits and planned gathering areas where landscaping will be embellished and enhanced in order to compensate for the reduction within the hardscape areas. Furthermore, it should be noted that there will be a significant net decrease in hardscape and impervious areas on this project site.

Because this plan for the design is not allowable with a strict interpretation of the zoning ordinance, while we feel it will still comply with the spirit of the Highway 31 master plan, a variance to this section is being requested.

ATTACHMENT TO VARIANCE REQUEST**Sec. 9.2.2.2 Perimeter Landscaping**

Due to the site constraints previously explained in the project summary and to maximize the off-street parking on this site, it is necessary to limit the amount of landscaping within the parking and vehicle drive areas of this site. This request is limited to the side/north line of the property. There are areas within the floodway limits and planned gathering areas where landscaping will be embellished and enhanced in order to compensate for the reduction within the hardscape areas. Furthermore, it should be noted that there will be a significant net decrease in hardscape and impervious areas on this project site.

Because this plan for the design is not allowable with a strict interpretation of the zoning ordinance, while we feel it will still comply with the spirit of the Highway 31 master plan, a variance to this section is being requested.

Sec. 9.2.3 Interior Landscaping

Due to the site constraints previously explained in the project summary and to maximize the off-street parking on this site, it is necessary to limit the amount of landscaping within the parking and vehicle drive areas of this site. There are areas within the floodway limits and planned gathering areas where landscaping will be embellished and enhanced in order to compensate for the reduction within the hardscape areas. Furthermore, it should be noted that there will be a significant net decrease in hardscape and impervious areas on this project site.

Because this plan for the design is not allowable with a strict interpretation of the zoning ordinance, while we feel it will still comply with the spirit of the Highway 31 master plan, a variance to this section is being requested.

Sec. 9.2.4 Building Landscaping

Due to the site constraints previously explained in the project summary and to maximize the off-street parking on this site and not impede the pedestrian accessibility within the buildable area of the site, it is necessary to limit the amount of landscaping adjacent to the buildings. There are areas within the floodway limits and planned gathering areas where landscaping will be embellished and enhanced in order to compensate for the reduction within the hardscape areas. Furthermore, it should be noted that there will be a significant net decrease in hardscape and impervious areas on this project site.

Because this plan for the design is not allowable with a strict interpretation of the zoning ordinance, while we feel it will still comply with the spirit of the Highway 31 master plan, a variance to this section is being requested.

OWNER: VESTAVIA 31 RE, LLC
3009 PUMP HOUSE ROAD, STE 100
VESTAVIA HILLS, AL 35243
(205)329-8476

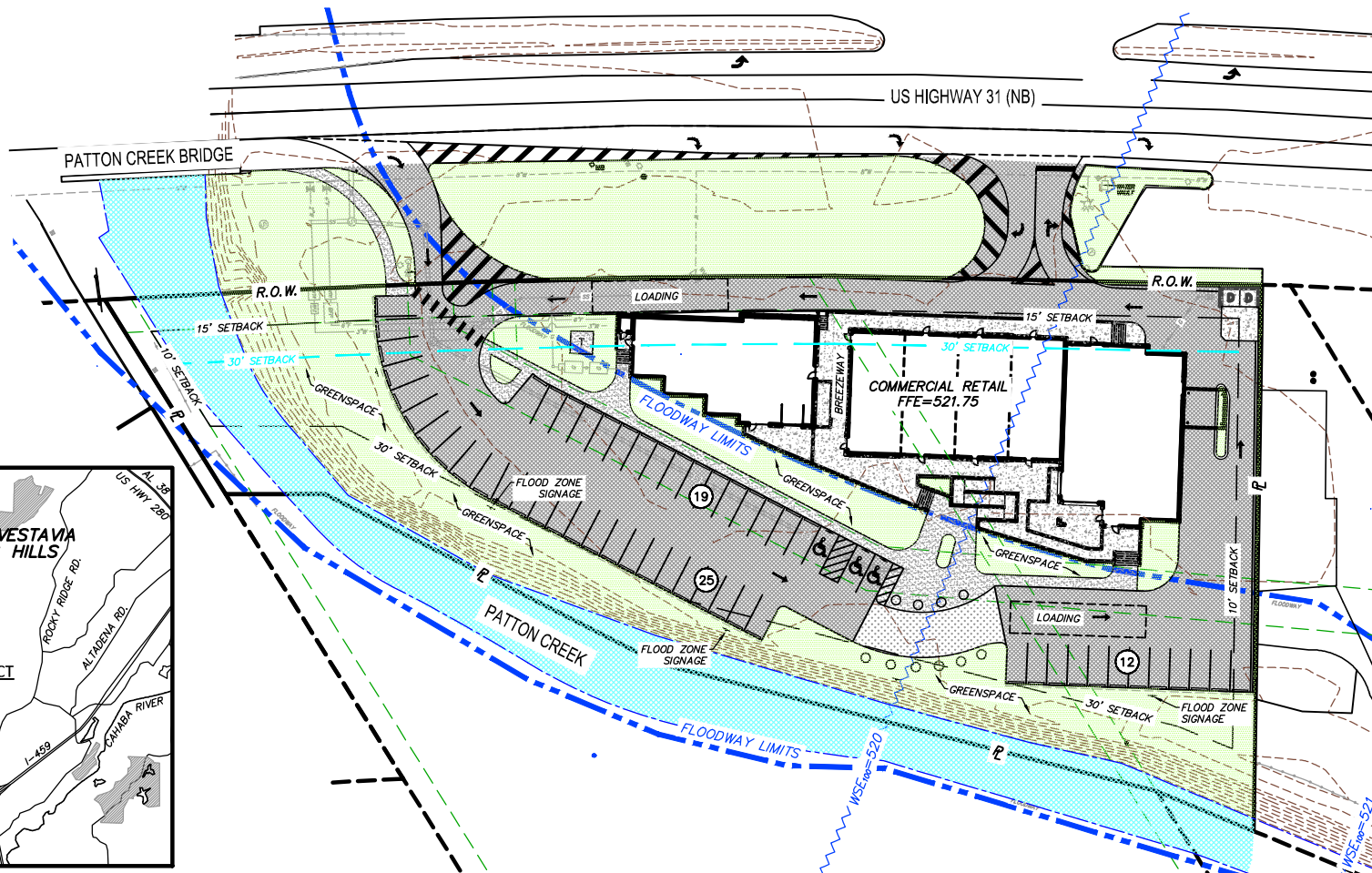
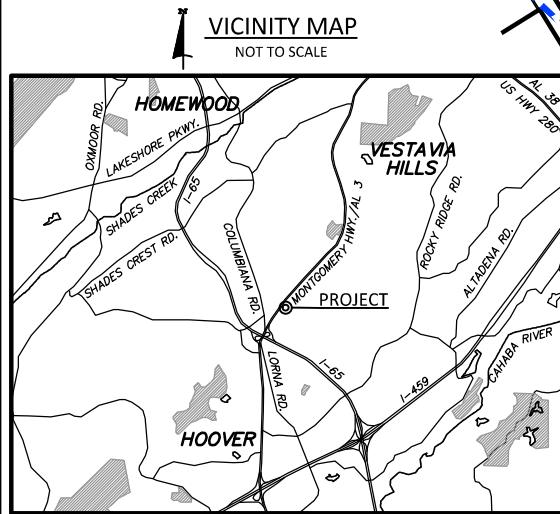
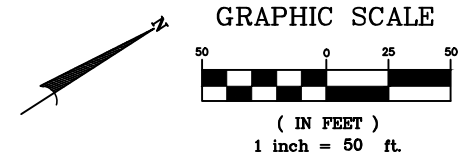
ZONING: B-3. CONDITIONAL BUSINESS DISTRICT

LOT SIZE: 79,689SF± (1.83AC±)

PARKING
REQUIRED: 139 SPACES
PROVIDED: 56 SPACES
VARIANCE REQUESTED: 83 SPACES

SETBACKS
FRONT YARD: REQUIRED 30' PROVIDED 15' (VARIANCE REQUESTED)
SIDE YARD: 0'-10' 10'
REAR YARD: 30' 30'

HOURS OF OPERATION AND PARKING DEMAND BY USE										
Tenant Name	Hours of Operation	Peak Demand Hours (M - Th)	Peak Demand Hours (F - S)	GLA (sf)	PFA (sf)	Seats	Emps.	Parking Ratio (1/3 SEATS + EMPS)	Parking Ratio (1/40 SF PFA)	
Big Bad Breakfast	7:00am - 2:30pm	7:30am - 10:00am	7:30am - 11:00am	3,728	1,740	91	15	46	44	
Waldo's Chicken & Beer	10:30am - 9:00pm	11:30am - 1:00pm	11:30am - 2:00pm	4,612	2,938	136	10	56	74	
Spec Retail	10:00am - 9:00pm	3:00pm - 6:00pm	3:00pm - 6:00pm	5,183	(1/200 SF GLA)			26	26	
Total GLA				13,523	Total Parking Demand			128	144	
Highest Parking Count - Shared Parking Reduction by Use (Table 8.1.1)								123	139	



DATE	08/22/2023
PLAN ISSUE	SITE PLAN

SITE PLAN

PATTON PLACE
A NEW COMMERCIAL DEVELOPMENT
VESTAVIA HILLS, AL

PROJECT NO. 23.007
SCALE: 1" = 50'
DRW: REV:

SHEET ____ OF ____

OWNER:	VESTAVIA 31 RE, LLC 3009 PUMP HOUSE ROAD, STE 100 VESTAVIA HILLS, AL 35243 (205)329-8476
ZONING:	B-3. CONDITIONAL BUSINESS DISTRICT
LOT SIZE:	79,689SF± (1.83AC±)
PROJECT AREA (INCL. R.O.W.)	97,310.7SF±
GREENSPACE AREA	
EXISTING	17,866.4SF± (18.4%)
PROPOSED	39,378.9SF± (40.5%)
DIFFERENCE	21,512.5SF± INCREASE

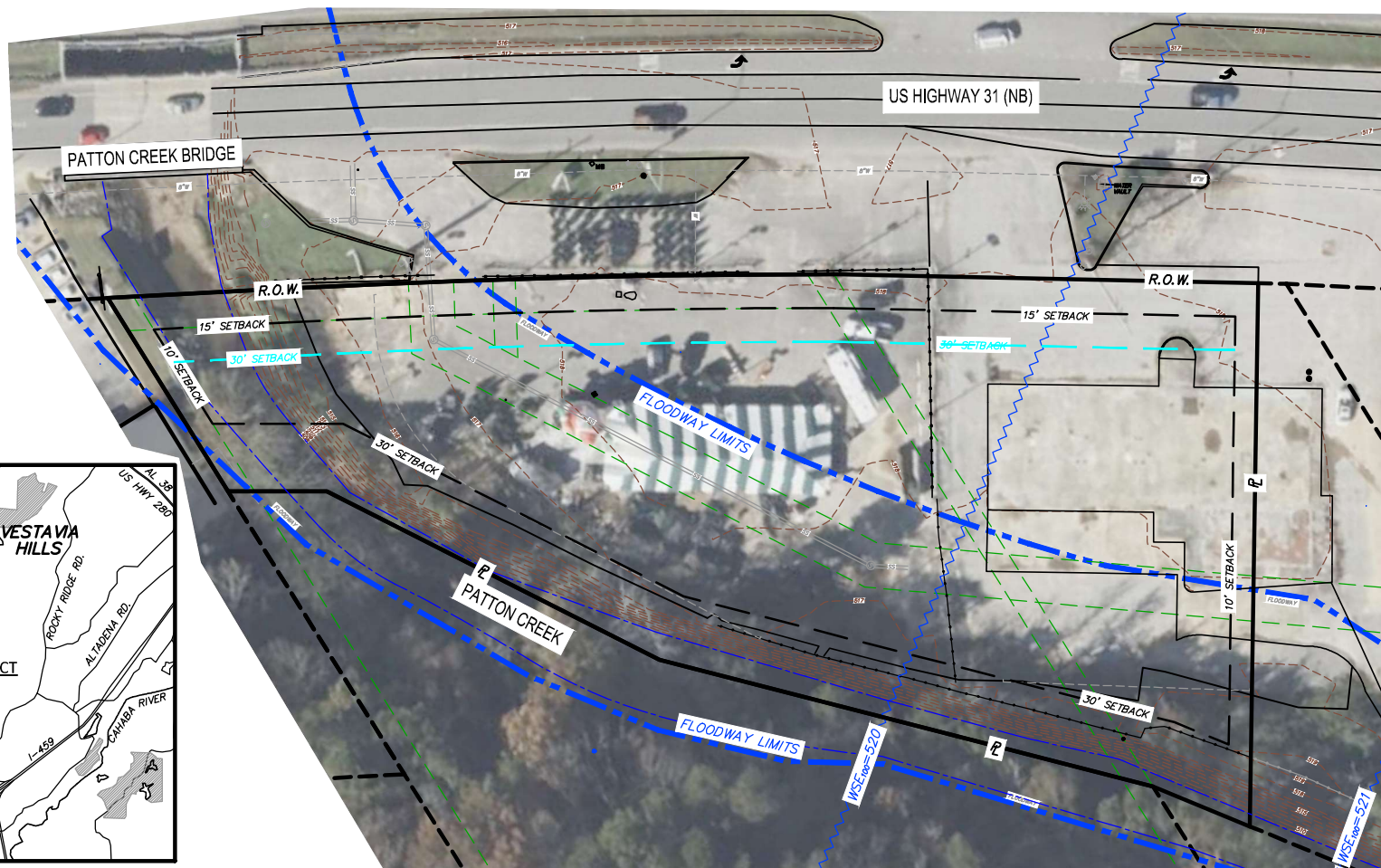
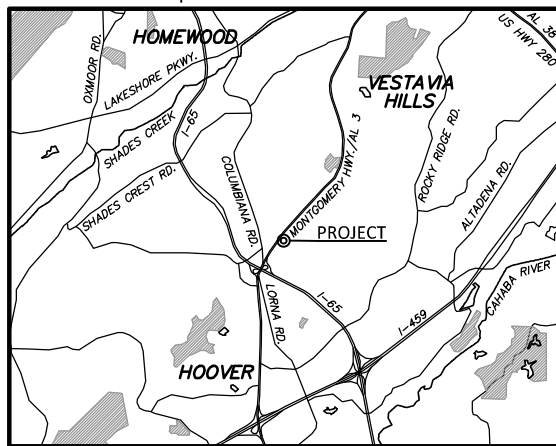
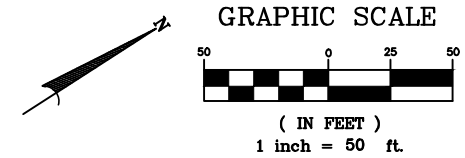
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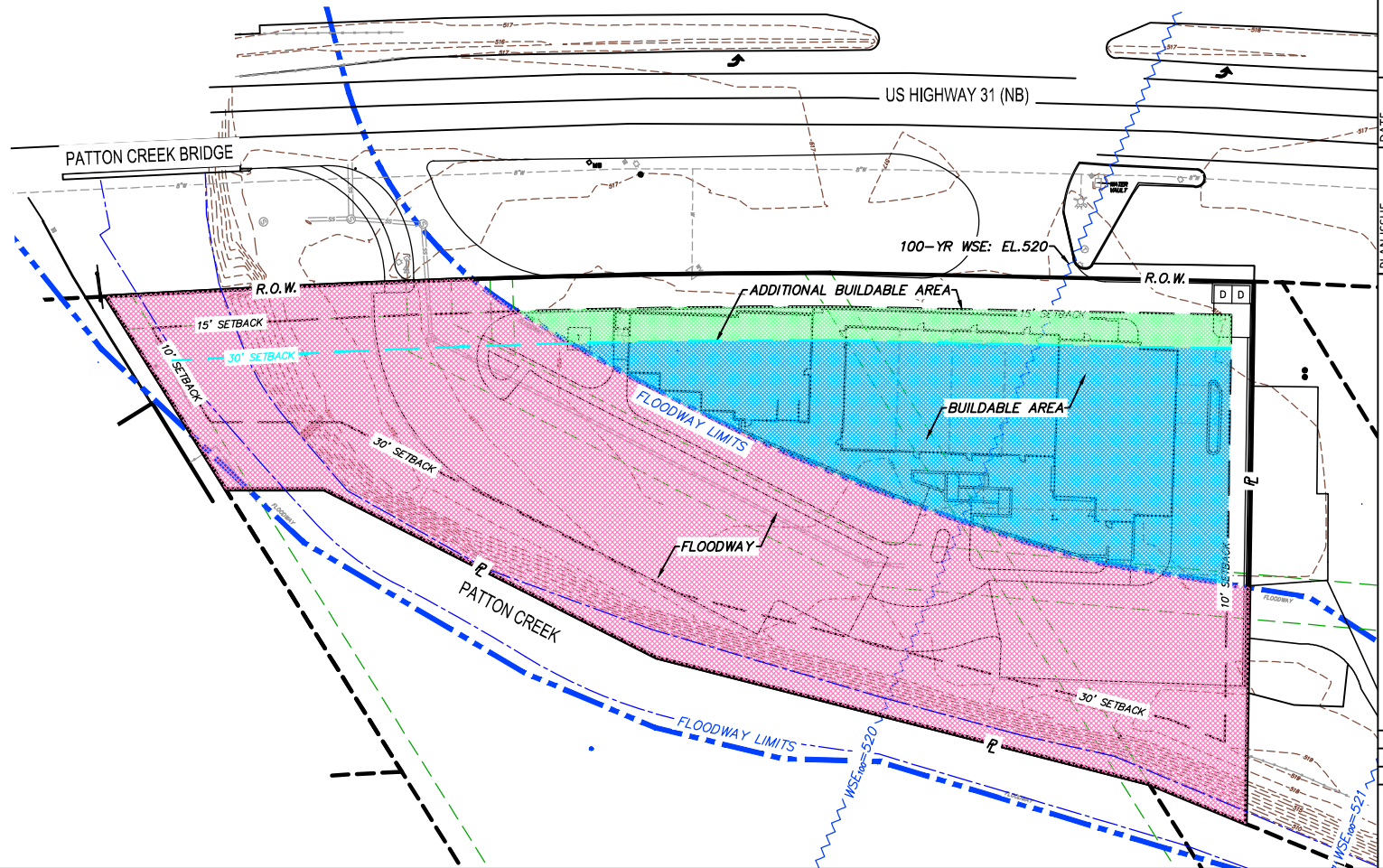
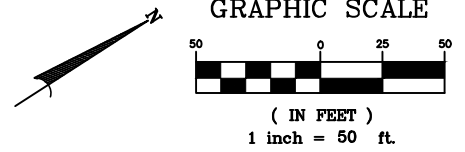
EXHIBIT - EXISTING CONDITIONS

PATTON PLACE
A NEW COMMERCIAL DEVELOPMENT
VESTAVIA HILLS, AL

PROJECT NO. 23.007	
SCALE: 1" = 50'	
DRW:	REV:

SHEET _____ OF _____

OWNER:	VESTAVIA 31 RE, LLC 3009 PUMP HOUSE ROAD, STE 100 VESTAVIA HILLS, AL 35243 (205)329-8476	
ZONING:	B-3. CONDITIONAL BUSINESS DISTRICT	
LOT SIZE:	79,689SF± (1.83AC±)	
BUILDABLE AREAS		
EXISTING	18,858SF± (23.6%)	
ADDITIONAL	4,546SF±	
TOTAL	23,404SF± (29.4%)	
SETBACKS	REQUIRED	PROVIDED
FRONT YARD:	30'	15' (VARIANCE REQUESTED)
SIDE YARD:	0'-10'	10'
REAR YARD:	30'	30'



CAPRINE
 PLANNING-CIVIL ENGINEERING-CONSULTING
 307 PEEBLES PARK CIRCLE, SUITE 226 BIRMINGHAM, ALABAMA 35223 (205) 972-3682

DATE	PLAN ISSUE	EXHIBIT
08/22/2023		

EXHIBIT - BUILDABLE AREAS

**PATTON PLACE
A NEW COMMERCIAL DEVELOPMENT
VESTAVIA HILLS, AL**

PROJECT NO. 23.007

SCALE: 1" = 50'

DRW:

REV:

SHEET ____ OF ____

Waldo's Chicken and Beer
3009 Pump House Road, Suite 100
Vestavia, AL 35243

8/21/2023

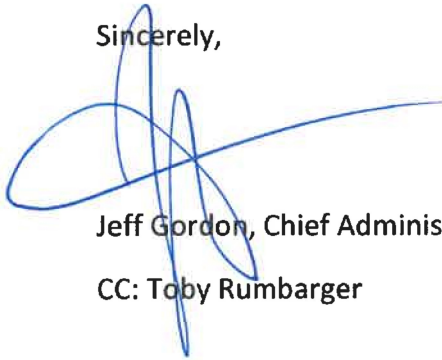
RE: Waldo's Chicken and Beer – 1467 Montgomery Highway – Parking

To whom it may concern:

As the CAO of Waldo's Chicken and Beer, we have reviewed all the drawings, including the Civil Plans for the parking at the proposed location at 1467 Montgomery Highway. We are aware of the parking situation at the development and approve the parking as acceptable to Waldo's for its requirements.

The peak operating time for Waldo's Chicken and Beer does not overlap with the other proposed restaurant tenant.

Sincerely,

A handwritten signature in blue ink, appearing to be "Jeff Gordon", written over the printed name.

Jeff Gordon, Chief Administrative Officer

CC: Toby Rumbarger

Big Bad Breakfast
3009 Pump House Road, Suite 100
Vestavia, AL 35243

8/21/2023

RE: Big Bad Breakfast – 1467 Montgomery Highway – Parking

To whom it may concern:

As the CAO of Big Bad Breakfast, we have reviewed all the drawings, including the Civil Plans for the parking at the proposed location at 1467 Montgomery Highway. We are aware of the parking situation at the development and approve the parking as acceptable to Big Bad Breakfast for its requirements.

The peak operating time for Bid Bad Breakfast does not overlap with the other proposed restaurant tenant.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'J' and 'G' followed by a horizontal line extending to the right.

Jeff Gordon, Chief Administrative Officer

CC: Toby Rumbarger



**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: 1467 Montgomery Hwy., 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.

 X the Property Owner, but I am authorizing a Representing Agent by the name of:
E. Chris Eckroate, PE of Caprine Engineering, LLC to represent me in the following request:

And am requesting: (please check)

 Rezoning Request
 Preliminary Plat Approval
 X Final Plat Approval
 Conditional Use Approval

 X Request for Variance
 Special Exception
 X Design Review Approval

Signed:

Owner Signature/Date

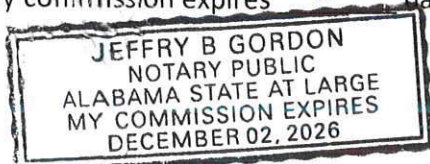
STATE OF ALABAMA

COUNTY OF JEFFERSON

Given under my hand and seal
this 21st day of JULY, 2023.

Notary Public

My commission expires 2nd day of DECEMBER, 2026.





VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

September 21, 2023

AGENDA ITEM

BZA-23-23 **Amanda and James Woods** are requesting a **Front Setback Variance** for the property located at **2100 Chestnut Road**. The purpose of this request is to reduce the front setback to 15' in lieu of the required 50', to add a roof to the existing terrace. The property is owned by Amanda and James Woods and is zoned **Vestavia Hills R-3**.

BACKGROUND

35' Front Setback Variance to Reduce the Setback to 15' in Lieu of the Required 50'.

PLANNER'S REVIEW/RECOMMENDATION

The applicants are seeking a front setback variance to cover an existing terrace. The applicant contends the corner lot causes a hardship. The current deck is on the side of the house, but within a front setback. The current deck is not usable in the summer months because of the lack of roof. This property is zoned R-3.

ATTACHMENTS

1. Application
2. Original Resurvey
3. Site Plan
4. Proposed Drawing
5. Owners Affidavit

Jack Wakefield
City Planner



BZA-23-23

Variance and Special Exception Application

Status: Active

Submitted On: 8/22/2023

Primary Location

2100 CHESTNUT RD
VESTAVIA HILLS, AL 35216

Owner

Amanda and James Woods
Chestnut Road 2100 Vestavia
Hills, AL 35216

Applicant

 Salena Lambert
 601-720-5752
salenatew.lambert@gmail.com
 5144 Colonial Park Rd
Birmingham, AL 35242

Agenda Information

Agenda Scheduling

September 2023

Comments/Delay/Explanation

Applicant Information

I am filling this out as the

Representative Agent

Billing/Responsible Party

Name

Amanda and James Woods

Phone #

205-420-2290

Address

2100 Chestnut Road

City/State/Zip

Vestavia Hills, AL 35216

Email

amwoods408@gmail.com

Representing Attorney/Other Agent**Name**

Salena Lambert

Phone #

6017205752

Address**City/State/Zip****Email**

salenatew.lambert@gmail.com

Subject Property Information**Subject Property Address**

2100 Chestnut Road

Legal Description of Subject Property ?

Lot 17A, Resurvey of lots 17 & 18, Block 8, Biltmore Estates

REASONS FOR REQUEST**Front Setback Variance****Setback Required***

50'-0"

Setback Requested*

15'-0"

Rear Setback Variance

Side Setback Variance

☐

Other Setback Variance

☐

Lot Area Variance

☐

Lot Width Variance

☐

Variance for location of a fence.

☐

Sign Code Variance

☐

A decision of the Zoning Official which the applicant believes to be contrary to the meaning of the Zoning Ordinance.

☐

Other

☐

ZONING

Vestavia Hills Zoning for the subject property is

PROJECT

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

Corner lot hardship (2 front setbacks of 50'). Owners would like to add a roof to the existing terrace/slab for shade. It currently faces southwest, so they are not able to use it in the summer months because of the intense sun. They would also like to add a fireplace and outdoor grilling area to the existing footprint of the terrace/slab.

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).*

n/a

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:*

Yes - two 50' setbacks.

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:*

No

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:*

n/a

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:*

Yes

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

No

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

We are requesting 15'-0", but we technically only need 17'-6". the extra 30" is buffer for any potential design changes.

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.*

n/a

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."

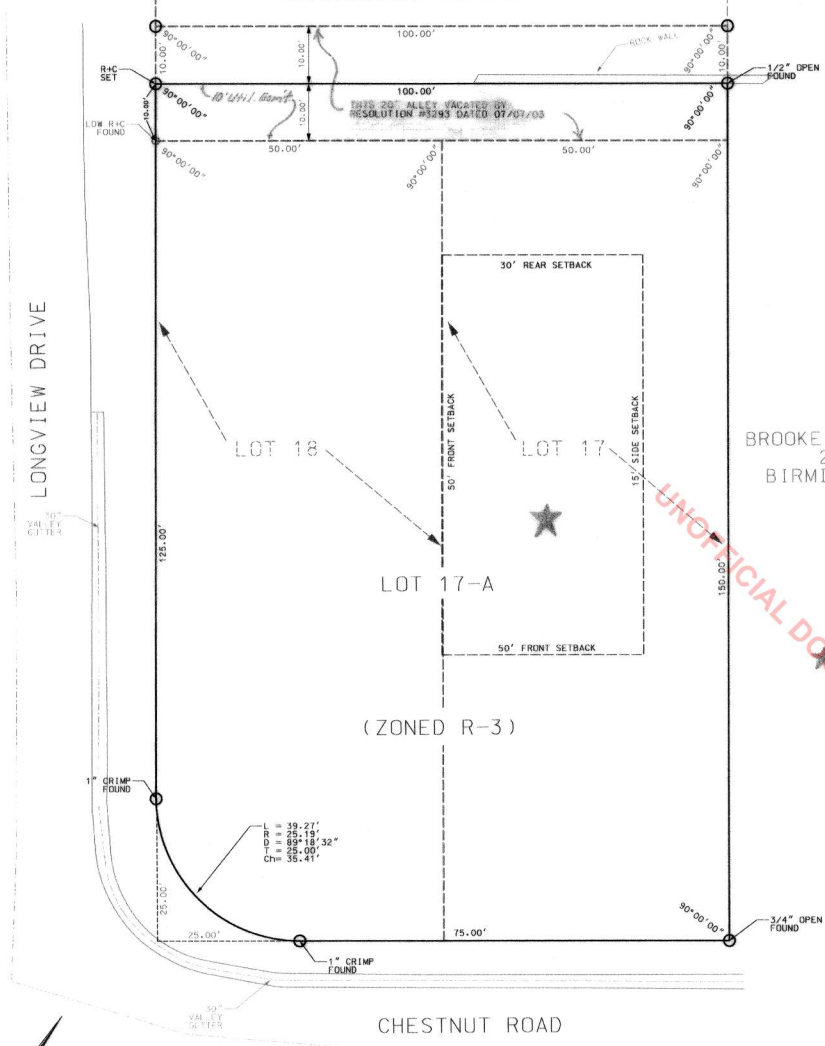
OWNER AFFIDAVIT

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.

Representing Agent Signature

 Salena Tew
Aug 21, 2023

LOT 1
JUDITH WILSON EVERETT & SYLVIA WILSON D. JONES
2101 SHADES CREST RD.
BIRMINGHAM, AL 35216-1533



PREPARED BY:
PARAGON ENGINEERING, INC.
2320 HIGHLAND AVENUE SOUTH
BIRMINGHAM, ALABAMA 35205
(205) 939-1119
PROJ. NO. 8-03016
MS FILE: RECORDPLAT.DGN



OWNER:
MR. W. GREGORY SMITH
2100 CHESTNUT ROAD
BIRMINGHAM, AL 35216-1508

SMITH'S RESURVEY OF
LOTS 17 & 18, BLK. 8,
BILTMORE ESTATES

SITUATED IN
THE SW 1/4 OF THE NE 1/4 OF
SEC. 19, TWP. 18 S., R. 2 W.
JEFFERSON COUNTY, ALABAMA

JEFFERSON COUNTY
STATE OF ALABAMA

The undersigned A. Frazier Christy, as Land Surveyor, and Mr. W. Gregory Smith, as owner, hereby certify that this plat or map was made pursuant to a survey made by said Surveyor, and that said survey and this plat or map were made at the instance of said Owner, that this plat or map is a true and correct plat or map of the land shown therein and known or to be known as MAP OF SMITH'S RESURVEY OF LOTS 17 & 18, BLK. 8, BILTMORE ESTATES, showing the subdivision into which it is proposed to divide said land, giving the lengths and bearings of the boundaries of each lot and its number, giving the bearings, length, width, and name of each street, and showing the relation to the government survey that iron pins have been installed at all lot corners and curve points as shown and designated on said plat or map. Said Owners also certify that they are the owners of said lands and that the same are not subject to any mortgage.

Said surveyor further certifies, to the best of his knowledge and belief, and information, that all parts of this survey and plat have been prepared in accordance with the current requirements of the Standards of Practice for Land Surveying in the State of Alabama.

PARAGON ENGINEERING, INC.

BY: *A. Frazier Christy*
A. Frazier Christy, A.L.S. #0269

JEFFERSON COUNTY
STATE OF ALABAMA

W. Gregory Smith

W. Gregory Smith, Owner

I, Shirley B. Hanvey, as Notary Public in and for said County and State, do hereby certify that A. Frazier Christy, whose name is signed to the foregoing certificate as Surveyor, and who is known to me, acknowledged before me, on this date, that after having been duly informed of the contents of said certificate, he executed same voluntarily with full authority therefor.

Shirley B. Hanvey
Shirley B. Hanvey
My Commission Expires 10/22/2005

JEFFERSON COUNTY
STATE OF ALABAMA

I, *Laurel B. Carr*, as Notary Public in and for said County and State, do hereby certify that W. Gregory Smith, whose name is signed to the foregoing certificate as Owner, and who is known to me, acknowledged before me, on this date, that after having been duly informed of the contents of said certificate, he executed same voluntarily with full authority therefor.

Laurel B. Carr
Laurel B. Carr
My Commission Expires 3-10-07

JEFFERSON COUNTY
STATE OF ALABAMA

I, *John D. Jones*, as Notary Public in and for said County and State, do hereby certify that W. Gregory Smith, whose name is signed to the foregoing certificate as Owner, and who is known to me, acknowledged before me, on this date, that after having been duly informed of the contents of said certificate, he executed same voluntarily with full authority therefor.

John D. Jones
John D. Jones
My Commission Expires 11/22/02

John D. Jones
John D. Jones
My Commission Expires 11/22/02

John D. Jones
John D. Jones
My Commission Expires 11/22/02

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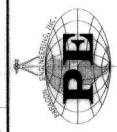
John D. Jones
John D. Jones
My Commission Expires 11/22/02

John D. Jones
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John D. Jones
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My Commission Expires 11/22/02

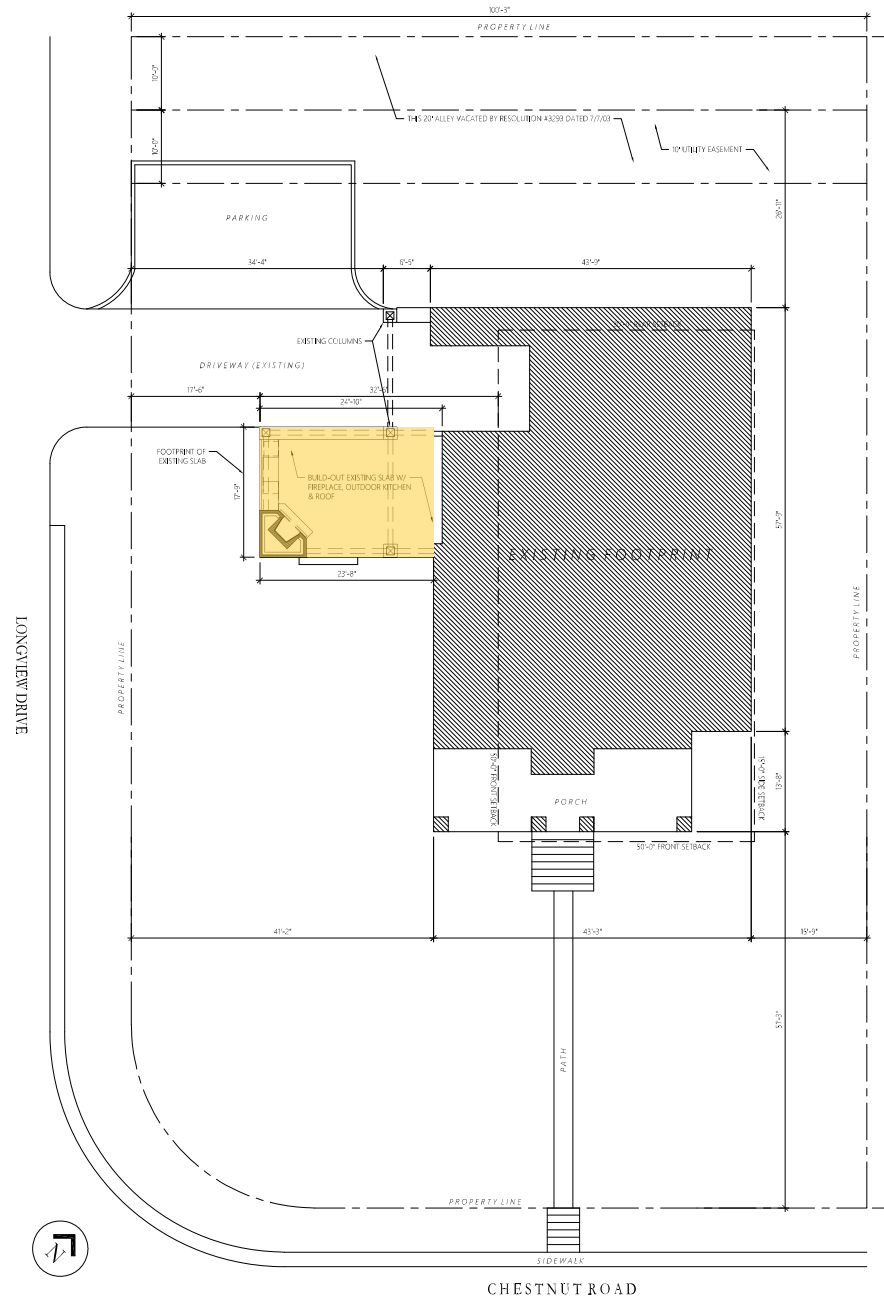
John D. Jones
John D. Jones
My Commission Expires 11/22/02

FOR REVIEW AND COMMENT	DATE	BY	REVISIONS
DATE	June 25, 2003		
SCALE	1" = 10'		
P.L.R.	569	PAGE	45
MS FILE	recordplat.dgn		
PROJECT	803016		
SHEET NO.	1 OF 1		



SMITH'S RESURVEY
LOTS 17 & 18, BLK. 8,
BILTMORE ESTATES
SECTION 19, TOWNSHIP 18 SOUTH,
RANGE 2 WEST

DRRAWN KAW
CHECKED AFC
DATE June 25, 2003
SCALE 1" = 10'
P.L.R. 569
PAGE 45
MS FILE recordplat.dgn
PROJECT 803016
SHEET NO. 1 OF 1



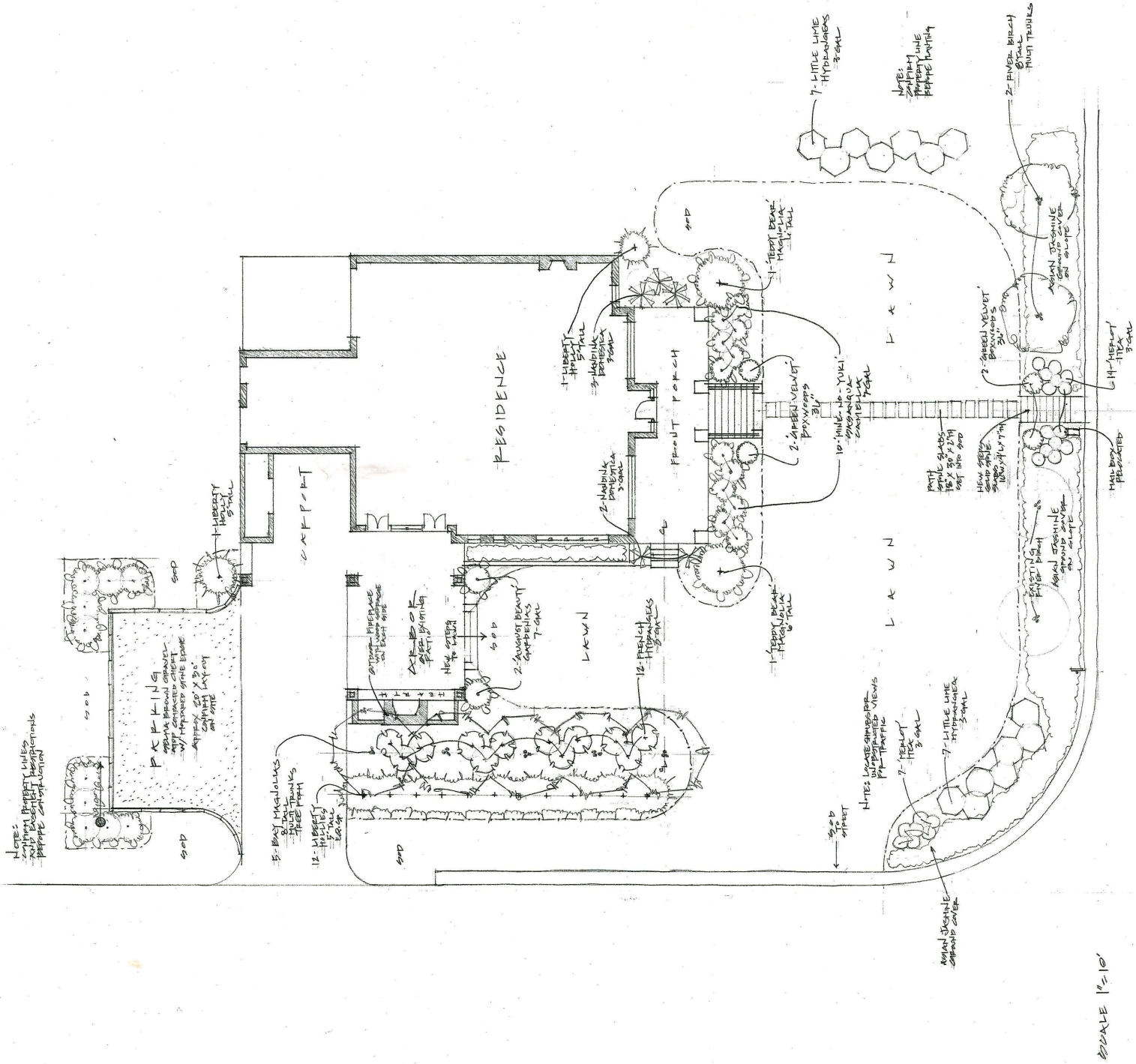
1 Site Plan
1/8"=1'-0"



FOR
VARIANCE
WOODS
RESIDENCE
210 CHESTNUT BLVD
VIRGINIA BEACH, VA 23061

August 21, 2024

A0-1



McDaniel
LAND DESIGNS

205.960.4978

A LANDSCAPE DEVELOPMENT PLAN FOR THE JONES RESIDENCE

2100 CHESTNUT ROAD - VESTAVIA, ALABAMA

MAY 25, 2018



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: 2100 Chestnut Road, 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: Salena Lambert to represent me in the following request:

And am requesting: (please check)

<u> </u> Rezoning Request	<u>✓</u> Request for Variance
<u> </u> Preliminary Plat Approval	<u> </u> Special Exception
<u> </u> Final Plat Approval	<u> </u> Design Review Approval
<u> </u> Conditional Use Approval	

Signed: James Wood 8/22/2023
Owner Signature/Date

STATE OF ALABAMA
COUNTY OF Shelby

Given under my hand and seal
this 22nd day of August, 2023

Kelli D. Bury
Notary Public

My commission expires 1st day of June, 2026.

