



Vestavia Hills
Board of Zoning Adjustment Agenda
February 15, 2024
6:00 PM

1. Roll Call
2. Approval Of Minutes
3. BZA-23-33 **Haley Jackson** is requesting a **Sign Code Variance** for the property located at **701 Montgomery Hwy Suite 101**. The purpose of this request is to reduce the copy area to 139.74 sq ft in lieu of the required 110sq ft, to build replace a commercial wall sign. The property is owned by George Casey and is zoned **Vestavia Hills B-2**.
4. BZA-24-1 **Matthew Moore** is requesting a **Side Setback Variance** for the property located at **720 Vestavia Lake Drive**. The purpose of this request is to reduce the side setback to 5' in lieu of the required 15', to build a carport addition. The property is owned by Matthew Moore and is zoned **Vestavia Hills R-2**.
5. BZA-24-2 **John Appleton** is requesting a **Variance for Location of Fence in the Front Setback** for the property located at **1304 Willoughby Road**. The purpose of this request is to build an open alluminum fence in the front setback. The property is owned by John Appleton and is zoned **Vestavia Hills R-2**.
6. Time Of Adjournment

CITY OF VESTAVIA HILLS
BOARD OF ZONING ADJUSTMENT
MINUTES

January 18, 2024

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

MEMBERS ABSENT

OTHER OFFICIALS PRESENT: Jack Wakefield, Planner/GIS

APPROVAL OF MINUTES

The minutes of December 21, 2023 were presented for approval.

MOTION Motion to dispense with the reading of the minutes of December 21, 2023 was made by Mr. Fliegel and 2nd was by Mr. Jones. Motion as carried on a voice vote as follows:

Mr. Fliegel – yes	Mr. Renta – yes
Mr. Greer – yes	Mr. Rummage – yes
Mr. Jones - yes	Chairman Rice – yes
Mr. Parchman – yes	

Motion carried.

REQUEST FOR REHEARING

BZA-23-35 **Brandon Stovall** is requesting a **Rehearing for a Rear and Side Setback Variance** for the property located at **1837 Cedarwood Road**. The purpose of this request is to reduce the rear setback to 45' in lieu of the required 50' & to reduce the side setback to 9' in lieu of the required 15', to build an addition. The property is owned by Brandon Stovall and is zoned **Vestavia Hills R-2**.

Mr. Wakefield stated that this is a request for a rehearing of a recently denied variance request. Mr. Wakefield then explained the rehearing procedure.

Taylor Burton was present for the case and stated that he is coming forward to the Board with an amended application, as the previous was incorrect. Mr. Burton then stated that there is an appeal for the previous denied variance ongoing. Although he would not like to sue the Board and would like to further litigate the case within the Board hearing over the Circuit Court.

Rice stated that we need to vote that is sufficient new information to rehear the case.

Mr. Burton, stated that on the street there is a house 5' across the setback and he explained the manhole for the sewer line in question. He also said he spoke with a member of Jefferson County Environmental Services stated that he wouldn't approve it, but that if it were engineered property, that he would run it up the chain of command.

Chairman Rice clarified the new information of the house down the street and the information on the sewer line.

Mr. Burton said on a flat rectangular lot they still have to look at money in terms of amending the plan.

Mr. Jones stated he is worried about competing jurisdiction with a case in the Circuit Court system, which takes the case out of the Board's hands.

Mr. Burton said if there was a resolution from the Board, he would dismiss the case.

Mr. Jones stated that he doesn't believe the Board has jurisdiction with a case in the Court system.

Mr. Fliegel stated he agreed with Mr. Jones.

Mr. Burton asked Mr. Jones what he would advise to his client.

Mr. Jones stated that he would advise his client to continue only with the Circuit Court.

Mr. Rummage stated setting aside the jurisdiction new information but it needs information not available at the time of the hearing. It seems the manhole issue was available at the time of the last hearing.

Mr. Burton stated it was discussed, but it is still new information along with the application.

Mr. Rummage stated the allowances to rehear the case are pretty narrow and it seems that there wasn't new information that wasn't available at the time.

Mr. Renta stated that even though there was not a new application, but it was discussed at length as a part of the hearing. From the Board's stand point there seems to be no new information that has come to light.

Mr. Burton stated staff didn't recommend a new application.

Mr. Renta stated that this is a reason we have a hearing, so we can discuss any information that may not be on that application. We discussed the information at length in that previous hearing.

Mr. Jones stated that we should move this case to the end, so we can get through the other cases.

Mr. Fliegel seconded that.

FOLLOWING THE DELAY

Mr. Wakefield explained the rehearing request process again before discussion. He also asked the Board if they have additional questions for the applicant.

Mr. Burton stated how do you find a hardship on a rectangular flat lot. He is building a nice addition in a subdivision that could use it. He feels his job is to find a hardship. He doesn't know how to do any better than this one.

Mr. Renta asked how much of the house is remaining?

Mr. Burton stated the foundation walls will stay. The exterior of the building would change.

Mr. Renta asked can he reduce the plan to make it work with the setback?

Mr. Burton stated that

Mr. Renta said if it were his client, he would recommend to rebuild and move it back as there is no hardship.

Brandon Stovall, 1837 Cedarwood Rd, stated legal precedent stated that you can attribute financial hardships as long as you take consideration of other things such as public interest.

Mr. Renta stated we must find a hardship to approve this.

Mr. Rummage stated that since we are discussing a procedural issue, we need to vote on that and not get into the merits of an approval.

Mr. Wakefield stated that there are 8 items that constitute a hardship in our Code. All must be present for a hardship to exist. The first item deals with hardship on the property based on its size, shape, or topography? That must be answered.

MOTION Motion to APPROVE a Request for a Rehearing, for the property located at 1837 Cedarwood Rd was made by Mr. Jones and 2nd was by Mr. Fliegel. Motion was carried on a roll call vote as follows:

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

REAR & SIDE SETBACK VARIANCE

BZA-23-32 **Bo Davis** is requesting a **Side & Rear Setback Variance** for the property located at **1200 Wickford Road**. The purpose of this request is to reduce the side setback to 10' in lieu of the required 15' & to reduce the rear setback to 1' in lieu of the required 30". (Vesthaven Side), to build a garage addition. The property is owned by Bo Davis and is zoned **Vestavia Hills R-2**.

Mr. Wakefield explained that this was a case that was postponed last month.

Reese Davis, 1200 Wickford Rd, was present for the case and stated he wanted to address the questions the Board and neighbor had at the previous hearing. Mr. Davis stated that there will be no windows on the back side of the structure. It will also be smaller in height than the current house. He also addressed the possibility of amending the brick wall so the structure can be moved off the side lot line. There was a foundational support at the area of the retaining wall.

Mr. Greer asked what materials would be used?

Mr. Davis said hardy board would be the exterior material used.

Chairman Rice asked the applicant to explain the hardship

Mr. Davis stated that this is a corner lot and there is no other place to build this structure.

Chairman Rice stated that there are 8 items that constitute a hardship and asked if Mr. Davis could explain #4 on that list.

Mr. Davis stated that the proposal wouldn't injure any neighbor's property.

Mr. Rummage brought up the neighbor's concerns.

Mr. Davis said that he removed the windows on the rear to try and alleviate the neighbor's concern. Also, there is vegetation that would block the structure.

Mr. Renta asked if there were windows on the other side of the structure?

Mr. Davis stated that there are no windows on that side and only facing off the front.

Mr. Renta stated he was concerned about an overhand on a 1' variance.

Mr. Davis stated he could move the structure off that the property line if he were given approval.

Mr. Wakefield stated we need to establish the parameters of the new setback to approval.

Chairman Rice asked the height of the structure.

Mr. Davis stated it would be 20'.

Mr. Wakefield stated the requirement is 16' but would be measure at the midpoint of the pitch roof. How the drawing is scaled, the midpoint would be 15'.

Chairman Rice opened the floor for a public hearing.

Nick Veres, 1204 Wickford Rd, was present for the case and stated his issue wasn't the windows, but the closeness to their lot line. He stated that real estate professionals stated that it could negatively affect his property if the structure was built.

Mr. Davis said he understands the concern, but he already has lots of cars and trailers on the spot of the proposed addition.

Mr. Renta asked if these were work vehicles or personal.

Mr. Davis said they are personal.

Mr. Renta stated he is concerned about the amount of impermeable surface on the lot.

There being no one else present in regard to the request, Mr. Rice closed the public hearing. He stated the he recommends that the applicant postpone the case to the next month.

Mr. Wakefield stated it would be smarter to withdraw and come up with a new application and new plan to start from scratch.

Mr. Davis stated he would withdraw the request.

SIGN CODE VARIANCE

BZA-23-33 **Haley Jackson** is requesting a **Sign Code Variance** for the property located at **701 Montgomery Hwy Suite 101**. The purpose of this request is to reduce the copy area to 139.74 sq ft in lieu of the required 110sq ft, to build replace a commercial wall sign. The property is owned by George Casey and is zoned **Vestavia Hills B-2**.

Mr. Wakefield stated the applicant could not attend the hearing because of bad travel conditions brought on by the recent snow and ice event. They asked this be postponed to next month.

FRONT SETBACK VARIACNE

BZA-23-36 **Ryan & Hannah Hunt** are requesting a **Front Setback Variance** for the property located at **3001 Green Valley Road**. The purpose of this request is to reduce the front setback to 6' in lieu of the required 40', to rebuild deck. The property is owned by Ryan & Hannah Hunt and is zoned **Vestavia Hills R-4**.

Mr. Wakefield explained that the request was to rebuild a deck in the rear.

Craig Blair, 3000 Green Valley Rd, was present for the case and stated the corner and odd-shaped lot caused a hardship.

Mr. Fliegel asked if this was just replacing an existing deck.

Mr. Blair stated yes but just squaring it off.

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 34' Front Setback Variance to reduce the setback to 6' in lieu of the required 40', for the property located at 3001 Green Valley Road was made by Mr. Jones and 2nd was by Mr. Fliegel. Motion was carried on a roll call vote as follows:

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

REAR SETBACK VARIACNE

BZA-23-37 John Derek Crews is requesting a **Rear Setback Variance** for the property located at **900 Southridge Drive**. The purpose of this request is to reduce the rear setback to 18' in lieu of the required 30', to cover patio. The property is owned by Clay & Melissa Cochran and is zoned **Vestavia Hills R-3**.

Mr. Wakefield explained that the request was to cover an existing patio.

John Crews, 5210 Stonehaven Drive, stated the hardship was corner lot.

Carrisa Crews stated the existing concrete patio is raised and would like to roof it to have a dry space in the rear.

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 12' Rear Setback Variance to reduce the setback to 18' in lieu of the required 30', for the property located at 900 Southridge Drive was made by Mr. Jones and 2nd was by Mr. Greer. Motion was carried on a roll call vote as follows:

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

SIDE SETBACK VARIACNE

BZA-23-38 Kim Parker is requesting a **Side Setback Variance** for the property located at **1148 Winward Lane**. The purpose of this request is to reduce

the side setback to 9' in lieu of the required 15', to build RV carport. The property is owned by Kim Parker and is zoned **Vestavia Hills R-3**.

Mr. Wakefield explained that the request was to build an RV carport.

Kim Parker, 1148 Winward Lane, was present for the request and stated he cannot move the structure anywhere else on the lot because of the slope and septic lines on the property.

Mr. Renta asked for a clarification of the hardship.

Mr. Parker stated that the slope is bad in most of the rear and then he pointed out the area of the septic system (in the middle of the rear yard).

Chairman Rice asked about the height.

Mr. Parker stated it would be 13' tall.

Chairman Rice brought up that the applicant is over the 30% impervious area.

Mr. Parker stated he knows and will work with Engineering.

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 6' Side Setback Variance to reduce the setback to 9' in lieu of the required 15', for the property located at 91148 Winward Lane was made by Mr. Jones and 2nd was by Mr. Parchman. Motion was carried on a roll call vote as follows:

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

At 7:52 PM, Mr. Renta made a motion to adjourn. The meeting adjourned at 7:52 PM.

Jack Wakefield,
Planner/GIS



VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

February 15, 2024

AGENDA ITEM

BZA-23-33 **Haley Jackson** is requesting a **Sign Code Variance** for the property located at **701 Montgomery Hwy Suite 101**. The purpose of this request is to reduce the copy area to 139.74 sq ft in lieu of the required 110sq ft, to build replace a commercial wall sign. The property is owned by George Casey and is zoned **Vestavia Hills B-2**.

BACKGROUND

29.74sqft. Sign Code Variance to Increase the Copy Area to 139.74 in Lieu of the Required 110sqft.

PLANNER'S REVIEW/RECOMMENDATION

Applicant is seeking a variance to allow for two signs, larger than the required minimum area for signage. The space is allowed 2 signs both at 55sqft each. Each proposed sign will be 69.87sqft, leaving a variance of 29.74sqft. The new signage will replace existing, as the space has a new tenant. The existing signage is well over the allowable size, and is larger than what is being proposed. The new sign will be a reduction to what is existing. Existing signage is 117.95sqft each and 235.9sqft in total. There will be a 100sqft reduction in the size of signage. The slope of the lot, limits visibility of the sign as well. This is a multi-tenant building on a slope. The proposed sign would give the needed amount of visibility. Zoned Vestavia Hills B-2.

ATTACHMENTS

1. Application
2. Rendering
3. Front Elevation
4. Side Elevation
5. Owners Affidavit

Jack Wakefield
City Planner



BZA-23-33

Variance and Special
Exception Application

Status: Active

Submitted On: 11/6/2023

Primary Location

701 MONTGOMERY HWY
VESTAVIA HILLS, AL 35216

Owner

George Casey
Montgomery HWY 701
Vestavia Hills, AL 35216

Applicant

Haley Jackson
 256-534-6925
 haley@bnbsign.com
 2015 Seminole Drive
Huntsville, AL 35805

Agenda Information

Agenda Scheduling

January 2024

Comments/Delay/Explanation

Applicant Information

I am filling this out as the
Representative Agent

Billing/Responsible Party

Name

Phone #

Address

City/State/Zip

Email

Representing Attorney/Other Agent

Name

Phone #

Address

City/State/Zip

Email

Subject Property Information

Subject Property Address

701 Montgomery HWY ste 101 Vestavia
Hills, AL 35216

Legal Description of Subject Property ?

Pop shelf changing over to "Dollar General"

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.**☐**Sign Code Variance**☒**Details ?**

Front and side elevation sign- 13' - 2 5/8" X 5' -3 7/16" =69.87 Sq Ft boxed - Stacked letters -raceway & backer board.

29.74sqft. Sign Code Variance to Increase the Copy Area to 139.74 in Lieu of the Required 110sqft.

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.*

Remove "pop shelf" building signage install "Dollar General" stacked letters- raceway & backer board on front and side elevation each sign 69.87 Sq Ft

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 signage on the building now

2021 = initial popshelf signs installed = 68.06 SQ FT EACH

2023 = Variance to add to popshelf signs = Current popshelf signs = 117.95 SQ FT EACH

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:*

Signs are each 69.87 Sq Ft. It will be a large reduction from what is existing. The slope also limits visibility. The proposed size would give enough visibility to this retail business.

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:*

NA

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:*

N/A

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

N/A

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

N/A

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 ?



Haley Jackson

Nov 6, 2023



24" STACKED LETTERS - HWL - Raceway & Backer Board
69.87 SQ FT Boxed



DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings. These drawings and designs are the exclusive property of Everbrite LLC Use of, or duplication in any manner without express written permission of Everbrite LLC is prohibited.

Customer: Dollar General		Description: 24" Stacked LED Channel Letters	Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and to location of sign as shown. Please return signed copy back to Everbrite.	
Project No: 368146	Scale: NTS			
Date: 7/27/17	Drawn By: DB	Revised:	CUSTOMER SIGNATURE	DATE
Location & Site No:		Revised:	LANDLORD SIGNATURE	DATE



BEFORE

FRONT ELEVATION



AFTER

FRONT ELEVATION



E031658- 24" DG STACKED LETTERS W/ BACKER BOARD/RACEWAY



DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings.
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Customer: DG: DOLLAR GENERAL		Description: FRONT ELEVATION: 24" DG stacked channel letters w/ BB, on raceway	Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and to location of sign as shown. Please return signed copy back to Everbrite.	
Project No: 492476-2	Scale:			
Date: 11/06/2023	Drawn By: CH	Revised:	CUSTOMER SIGNATURE	DATE
Location & Site No: 701 Montgomery Hwy #101 Vestavia Hills, AL DG23891-1		Revised:	LANDLORD SIGNATURE	DATE



BEFORE SIDE ELEVATION



AFTER SIDE ELEVATION



E031658- 24" DG STACKED LETTERS W/ BACKER BOARD/RACEWAY



DISCLAIMER: Renderings are for graphic purposes only and not intended for actual construction dimensions. For windload requirements, actual dimensions and mounting detail, please refer to engineering specifications and install drawings.
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Customer: DG: DOLLAR GENERAL		Description: SIDE ELEVATION: 24" DG stacked channel letters w/ BB, on raceway	Customer Approval: Graphics and colors on file will be used unless otherwise specified by customer. Please review drawing carefully. By signing below, you agree to graphics as shown above, and to location of sign as shown. Please return signed copy back to Everbrite.	
Project No: 492476-2	Scale:			
Date: 11/06/2023	Drawn By: CH	Revised:	CUSTOMER SIGNATURE	DATE
Location & Site No: 701 Montgomery Hwy #101 Vestavia Hills, AL DG23891-1		Revised:	LANDLORD SIGNATURE	DATE



**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: 701 Montgomery Hwy, Vestavia Alabama and that statements submitted in my application are true and that I am: (please 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 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
☒ Sign permit

Signed: _____

Owner Signature/Date

STATE OF ALABAMA
COUNTY OF Jefferson

Given under my hand and seal
this 13 day of December, 2023.

Kin King
Notary Public

KENZIE KING
NOTARY PUBLIC, ALABAMA STATE AT LARGE
MY COMMISSION EXPIRES APR. 25, 2027

My commission expires 25 day of April, 2024.



VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

February 15, 2024

AGENDA ITEM

BZA-24-1 **Matthew Moore** is requesting a **Side Setback Variance** for the property located at **720 Vestavia Lake Drive**. The purpose of this request is to reduce the side setback to 5' in lieu of the required 15', to build a carport addition. The property is owned by Matthew Moore 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

Applicant is seeking a side setback variance to build a garage addition, with a master bedroom above. The applicant contends the septic lines in the front and grease trap drain in the rear limits the buildable area. The rear lot line is also oddly shaped, preventing the addition going into the rear yard. The side neighbor and applicant are divided by an alley. The separation between lot lines will keep the proposed addition at least 15' from the neighbor's property line. The neighbor has no issues with the request, other than concern about water runoff with the construction of the new addition. Zoned Vestavia Hills R-2.

ATTACHMENTS

1. Application
2. Existing Survey
3. Proposed Survey
4. Owners Affidavit

Jack Wakefield
City Planner

**BZA-24-1****Variance and Special
Exception Application**

Status: Active

Submitted On: 1/3/2024

Primary Location720 VESTAVIA LAKE DR
VESTAVIA HILLS, AL 35216**Owner**Matthew Moore
Vestavia Lake Dr 720 Vestavia
Hills, AL 35216**Applicant** Matthew Moore
 912-655-0062
 mcmoore12@gmail.com
 720 Vestavia Lake Dr
Vestavia Hills, Alabama
35216

Agenda Information **Agenda Scheduling**

February 2024

 Comments/Delay/Explanation

Applicant Information

I am filling this out as the

Owner

Billing/Responsible Party**Name**

Matthew Moore

Phone #

9126550062

Address

720 Vestavia Lake Dr

City/State/Zip

Vestavia Hills, AL 35216

Email

mcmoore12@gmail.com

Subject Property Information

Subject Property Address

720 Vestavia Lake Dr

Legal Description of Subject Property ?

REASONS FOR REQUEST

Front Setback Variance

☐

Rear Setback Variance

☐

Side Setback Variance

☒

Setback Required*

15

Setback Requested*

5.8

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.*

We would like to build a carport addition with a master bedroom above it. The carport would be over the existing driveway. Our driveway is currently 29.8 feet long (distance to the side property line), and the side setback is 15 feet. This leaves 14.8 feet for the carport depth. Wwe would like the carport to be 24 feet deep to accommodate vehicles. We are requesting a variance of 9.2 feet for a new side setback of 5.8 feet.

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).*

Undue hardships: septic lines in the front yard and grease trap drain lines in back yard. Lot is irregularly shaped (right trapezoid) and shallow on one side (partly due to erosion from the creek), so a close rear setback line prevents a backyard addition. Distance to the side setback line is the same on both sides, so we would need a variance if we built on either side of the house.

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:*

This is correct. Due to the septic lines and irregular/shallow lot described above.

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 is correct. Most other lots in the district are either regularly shaped or have much deeper back yards, allowing for a larger building footprint. My next door neighbor also has a shallow, irregular lot and has an existing carport inside the setback lines to accomodate this.

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 is correct. The literal interpretation of the ordinance would prevent the proposed carport from being built.

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 is correct. Due to a 15' wide city alley which separates my my house from neighbor's house, the distance between our houses will remain in harmony with the intent of the R-2 zoning guidelines.

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

This is correct. The septic field lines were put in place by previous owners many years ago (house was built in 1955), and the rear property erosion has taken place over many years. The dam for Vestavia was created in the 1950s, which routed an existing creek to along our rear property boundary.

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 correct. The variance requested (9.2') would allow for the minimum recommended carport (24' deep).

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.*

This is correct. The proposed carport is for residential use only.

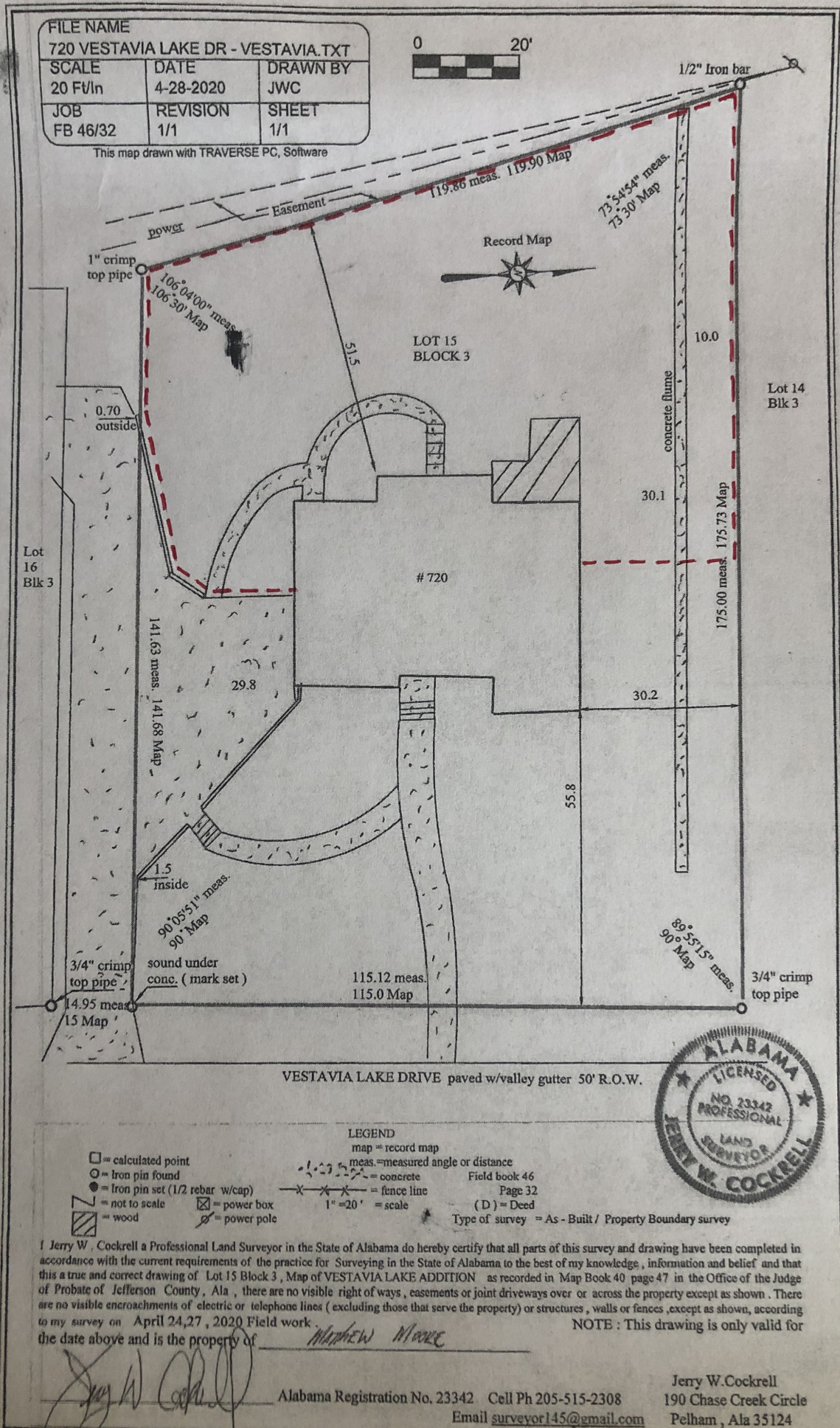
NOTE: In proving that an unnecessary hardship has been imposed on the property as a result of the strict interpretation of this Ordinance, the following conditions cannot be considered pertinent to the determination of whether or not an unnecessary hardship exists: (1) proof that a variance would increase 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

✓ Matthew Moore
Dec 30, 2023



FILE NAME

720 VESTAVIA LAKE DR - VESTAVIA.TXT

SCALE

20 F/In

DATE

4-28-2020

DRAWN BY

JWC

JOB

FB 46/32

REVISION

1/1

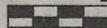
SHEET

1/1

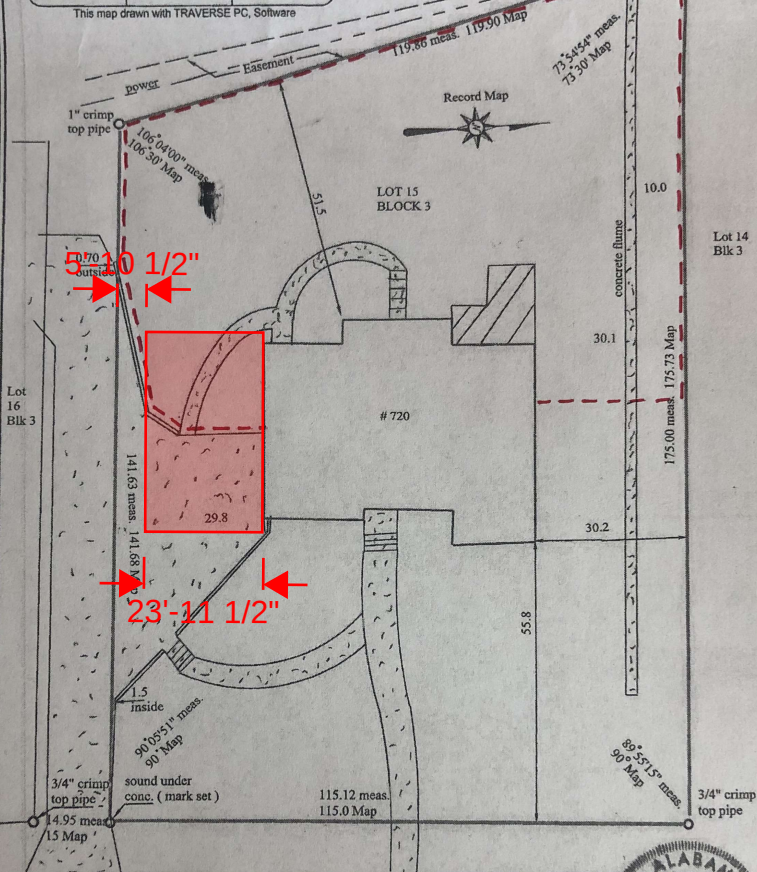
This map drawn with TRAVERSE PC, Software

0

20'



1/2" Iron bar



VESTAVIA LAKE DRIVE paved w/valley gutter 50' R.O.W.

LEGEND

map = record map

meas. = measured angle or distance

--- = concrete

--- = fence line

(D) = Deed

1" = 20' = scale

Field book 46

Page 32

Type of survey = As-Built / Property Boundary survey

□ = calculated point

○ = iron pin found

● = iron pin set (1/2" rebar w/cap)

□ = not to scale

□ = power box

□ = wood

□ = power pole

I, Jerry W. Cockrell a Professional Land Surveyor in the State of Alabama do hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the practice for Surveying in the State of Alabama to the best of my knowledge, information and belief and that this is a true and correct drawing of Lot 15 Block 3, Map of VESTAVIA LAKE ADDITION as recorded in Map Book 40 page 47 in the Office of the Judge of Probate of Jefferson County, Ala., there are no visible right of ways, easements or joint driveways over or across the property except as shown. There are no visible encroachments of electric or telephone lines (excluding those that serve the property) or structures, walls or fences, except as shown, according to my survey on April 24, 27, 2020 Field work

the date above and is the property of

MICHAEL MARCE

NOTE: This drawing is only valid for

Jerry W. Cockrell

190 Chase

Pelham, Ala 35124

Alabama Registration No. 23342 Cell Ph 205-515-2308

Email survevor145@gmail.com



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: 720 Vestavia Lake 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:

Matthew Moore 1/3/24
Owner Signature/Date

STATE OF ALABAMA

COUNTY OF Jefferson

Given under my hand and seal
this 3rd day of January, 2024.

Sarah Elizabeth Miller
Notary Public



My commission expires 0th day of February, 2026.



VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

February 15, 2024

AGENDA ITEM

BZA-24-2 **John Appleton** is requesting a **Variance for Location of Fence in the Front Setback** for the property located at **1304 Willoughby Road**. The purpose of this request is to build an open alluminum fence in the front setback. The property is owned by John Appleton 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 a fence within the front setback. Applicant contends the corner lot causes a hardship. The rear yard has a slope that also limits the placement of the fence in the rear. The front yard in question is the flattest area on the lot. The fence will be a black and open alluminum fence and will be 4' in height. Zoned Vestavia Hills R-2.

ATTACHMENTS

1. Application
2. Existing Survey
3. Proposed Survey
4. Additional Drawings
5. Owners Affidavit

Jack Wakefield
City Planner

**BZA-24-2****Variance and Special
Exception Application**

Status: Active

Submitted On: 1/15/2024

Primary Location1304 WILLOUGHBY RD
VESTAVIA HILLS, AL 35216**Owner**John and Kendall Appleton
Willoughby Rd 1304 Vestavia ,
AL 35216**Applicant** John Appleton 205-572-1155 jappleton1320@gmail.com 1304 Willoughby Rd
Vestavia , AL 35216

Agenda Information

 Agenda Scheduling

February 2024

 Comments/Delay/Explanation

Applicant Information

I am filling this out as the

Owner

Billing/Responsible Party

Name

John Appleton

Phone #

2055721555

Address

1304 Willoughby Rx

City/State/Zip

Vestavia, AL 35216

Email

Jappleton1320@gmail.com

Subject Property Information

Subject Property Address

1304 Willoughby Rd. Vestavia, AL 35216

Legal Description of Subject Property ?

LOT 5 BLK 3 2ND ADD VESTHAVEN 5TH SECTOR

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 ?**

We would like to fence in the side yard of our house with an aluminum fence. We were told it encroaches into the recorded front setback of the curvature of the roadway.

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

Vestavia Hills R-2

PROJECT

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

We would like to put in a black aluminum fence to the left side of our house. The side lot of our house is the flattest part and where our children play. The fence would ensure the safety of our children and guarantee they do not fall down a hill or get in to the street.

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 have three young children who like to play outside and the side yard is the flat area of our yard for them to play in. The fence would allow our children the freedom to play outside safely.

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:*

Our lot is on a corner so the side lot does give our children access to the street. We would like to put a fence around the side lot to guarantee our children's safety.

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:*

The fence is allowing our children to play safely in our 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:*

Because the lot is on the corner the street is closer to our side yard. Instead of having another lot next to our side lot we have the street. The fence is to protect our children.

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:*

We have discussed the fence with neighbors and they agree that it would be a great addition to the home. Multiple homes in the area have the same style of fence.

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

The shape and location of our lot makes it necessary to fence in the side yard. If the lot was not on a hill that was surrounded by the road we would not need the fence for safety.

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 putting in a small fence to enclose the flattest part of the yard. There will still be more room between the fence and the road.

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.*

Fencing in our yard.

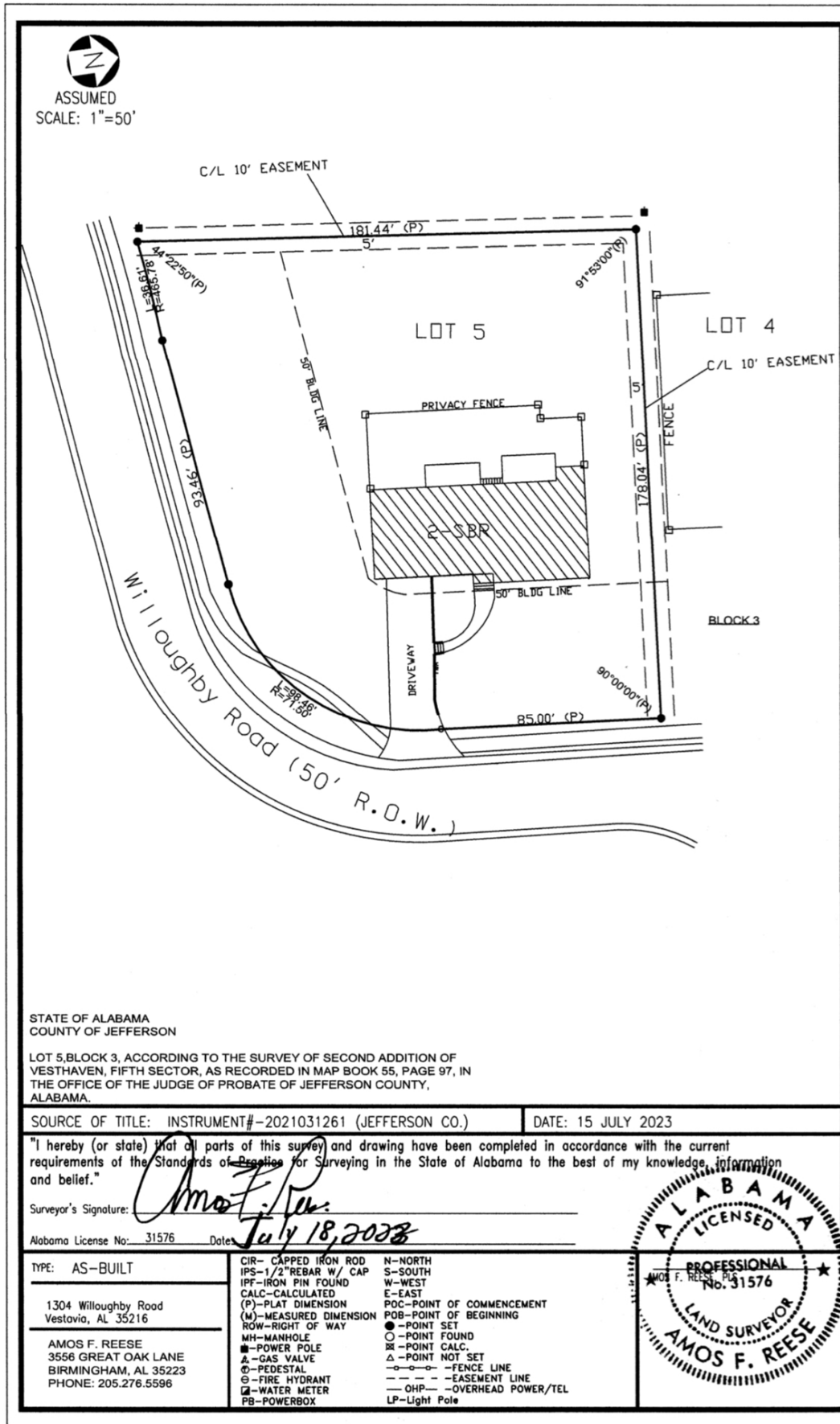
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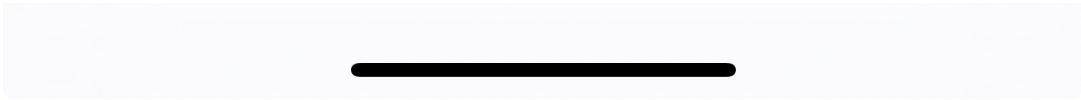
OWNER AFFIDAVIT

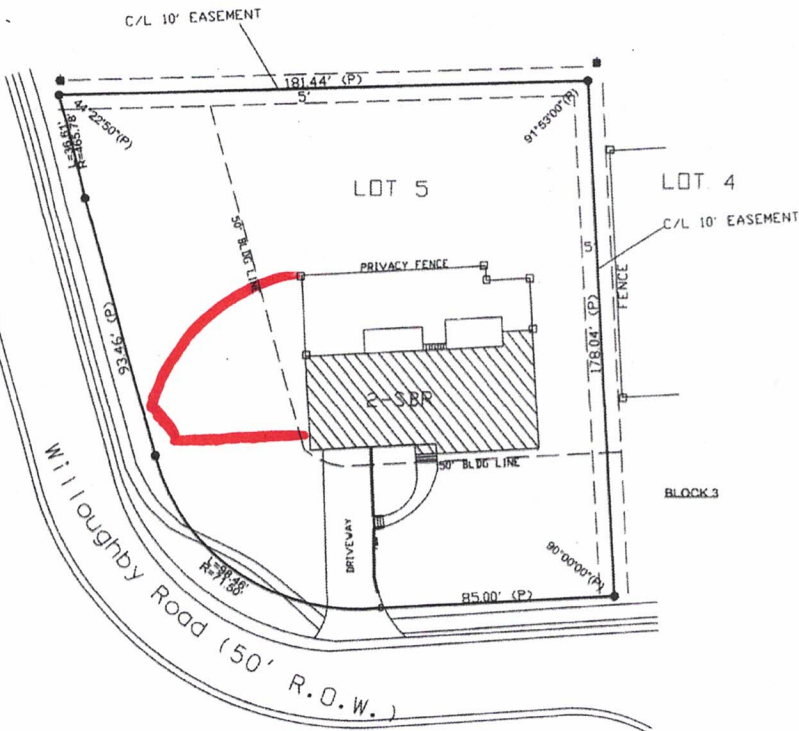
I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing. Simultaneously with the submittal of this application, I am hereby submitting a notarized affidavit signed by the owner of the property in the attachments 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

 John Appleton
Jan 15, 2024







STATE OF ALABAMA
COUNTY OF JEFFERSON

LOT 5, BLOCK 3, ACCORDING TO THE SURVEY OF SECOND ADDITION OF
VESTHAVEN, FIFTH SECTOR, AS RECORDED IN MAP BOOK 55, PAGE 97, IN
THE OFFICE OF THE JUDGE OF PROBATE OF JEFFERSON COUNTY,
ALABAMA.

SOURCE OF TITLE: INSTRUMENT#-2021031261 (JEFFERSON CO.)

DATE: 15 JULY 2023

"I hereby (or 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."

Surveyor's Signature:

Alabama License No. 31576

Date:

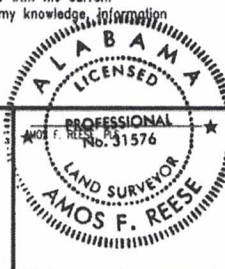
July 18, 2023

TYPE: AS-BUILT

1304 Willoughby Road
Vestavia, AL 35216

AMOS F. REESE
3556 GREAT OAK LANE
BIRMINGHAM, AL 35223
PHONE: 205.276.5586

CIR- CAPPED IRON ROD
IPS- 1/2" REBAR W/ CAP
IPF- IRON PIN FOUND
CALC- CALCULATED
(P)- PLAT DIMENSION
(M)- MEASURED DIMENSION
ROW- RIGHT OF WAY
MH- MANHOLE
P- POWER POLE
A- GAS VALVE
D- PEDESTAL
F- FIRE HYDRANT
W- WATER METER
PB- POWERBOX
N- NORTH
S- SOUTH
W- WEST
E- EAST
POB- POINT OF BEGINNING
POC- POINT OF COMMENCEMENT
P- POINT SET
F- POINT FOUND
M- POINT CALC.
A- POINT NOT SET
- - - FENCE LINE
- - - EASEMENT LINE
OHP- OVERHEAD POWER/TEL
LP- Light Pole



Estimate / Invoice

1h 9-28-23 @ 1130

Email: Shelbyfence@gmail.com

Phone: (205) 664-1551

Fax: (205) 664-1519

Shelby
FENCE COMPANY

Est. 1989

www.Shelbyfencecompany.com

Ticket #

Exp #

Cross Street

36233

Send Payment to:

PO Box 2131

Alabaster, AL 35007

BUYER Kendall, Appleton	PHONE 904-945-5603	DATE 9/28/23
STREET 1304 Willoughby Rd	JOB NAME Kendall Appleton 7@	
CITY, STATE AND ZIP CODE VH	JOB LOCATION Vesthaven	gmail
P.O. #		JOB PHONE

Circled

117' Black Vinyl 4foot or Aluminum 4foot Flat Top
\$4,528

1 single gate

8 terminals

Tension Wire

Remove 25' Privacy

\$2,933

Brick Wall

Wall Needs to
Be Backfilled
Before InstallTree to
Cut
(small)25'
Remove
Privacy

H2O Home

Replace Existing Back
and Right Side

95' Black Vinyl 4foot

Remove
Privacy
6 terminals

\$2,705

Aluminum 4foot

Remove
Privacy

\$4,060

ALL PAYMENTS ARE DUE UPON COMPLETION OF PROJECT.

- It is the responsibility of the purchaser to obtain any required permits prior to fence being erected. For warranty to be valid, the fence identification sign must be visible and attached to the fence.
- Warranties on wood fences are from the manufacturer and cover damage against insects and rot. It is a common characteristic of pine to sometimes warp and crack, which is not covered under warranty.
- Installer cannot be responsible for damage done to plants, SOD or trees during construction of fence.
- Installer will exercise caution to avoid hitting or damaging underground utilities and sprinklers, but will not be responsible for any damage occurred during drilling. Owner will assume responsibility of repair of such damages.
- Under conditions of the contract, the installer will provide and equipment to drill post holes under normal conditions only, any additional cost of labor or the rental of additional equipment to provide post holes through solid rock, concrete or any object foreign or natural, in or on top of the ground will be at extra cost born solely by the purchaser.
- Installer will not assume responsibility for property line location. Fence will be erected where purchaser directs and best knows the property lines to be.
- Installer will not knowingly erect fence on property not belonging to purchaser unless all parties are in agreement.
- All materials installed at erection site for construction of fence become property of purchaser at the time of installation. The purchaser assumes all responsibility for theft or malicious acts against such materials.
- Unless specifically stated, a fence enclosure is not guaranteed to be "dog-proof". Buyer may have to take steps to correct spaces or gaps under fence due to uneven ground conditions.
- All material is guaranteed to be as specified. All work to be completed in a workman like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon storms, accidents or delays beyond our control.

LATE CHARGE: If a payment is 15 days late, you will be charged 5% of the payment or \$10.00, whichever is greater, not to exceed \$100.00.

ATTORNEY AND COLLECTION FEES: If the purchaser fails to pay amount due within 30 days of the date of completion of the project, the purchaser agrees to pay all costs of collection and enforcement, including reasonable attorney's fees not exceeding 15% of the unpaid balance after default or judgment, whichever is first, and referral to an attorney not a salaried employee of Shelby Fence Company. Interest shall be at highest interest rate allowable by Alabama law.

We will hereby furnish materials and labor complete in accordance with above specifications, for the sum of:

(\$) Amount Due To Be Paid As Follows:

Authorized Signature/ Title

Chris

Acceptance: The above prices, specifications and conditions are satisfactory and are hereby accepted.

You are authorized to do the work as specified. Payment will be made as outlined above.

Signature: _____

Date of Acceptance: _____

Signature: _____



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: 1304 Willoughby 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:

John Asplund 1/19/24
Owner Signature/Date

STATE OF ALABAMA

COUNTY OF Jefferson

Given under my hand and seal
this 15th day of January, 2024.

Renny B. Lusk
Notary Public

My commission expires 19th day of July, 2026.

