



**City of Fairhope
Board of Adjustment and Appeals
5:00 PM
City Council Chambers
January 24, 2019**

Karin Wilson
Mayor

Council Members

Kevin G. Boone

Robert A. Brown

Jack Burrell, ACMO

Jimmy Conyers

Jay Robinson

Lisa A. Hanks, MMC
City Clerk

Michael V. Hinson, CPA
City Treasurer

1. Call to Order
2. Approval of the December 17, 2018 minutes
3. Consideration of Agenda Items:
 - A. BOA 18.14 Public hearing to consider the request of Rick Gambino for a variance to the side and rear setback requirements for property located at 151 S. Mobile Street.
PPIN #: 14484
 - B. BOA 19.01 Public hearing to consider the request of ADHD Medical Clinic of Mobile, PC, for a Special Exception to allow a Clinic at 101 Lottie Lane, Unit 6.
PPIN #: 14474
4. Old/New Business
 - Election of Officers
5. Adjourn

161 North Section Street

P O. Drawer 429

Fairhope, Alabama 36533

251-928-2136

251-928-6776 Fax

www.fairhopeal.gov

Printed on recycled paper



Board of Adjustment

January 24, 2019

Case: BOA 18.14 151 S. Mobile Street

Project Name:

151 S. Mobile Street

Property Owner / Applicant:

Gilbert R. Gambino

General Location:

South Mobile Street 1/8 mile
South of Fairhope Avenue

Request:

Front setback variance

Project Acreage:

1/7 acre approximately

Zoning District:

B-3a Tourist Resort District

PPIN Number:

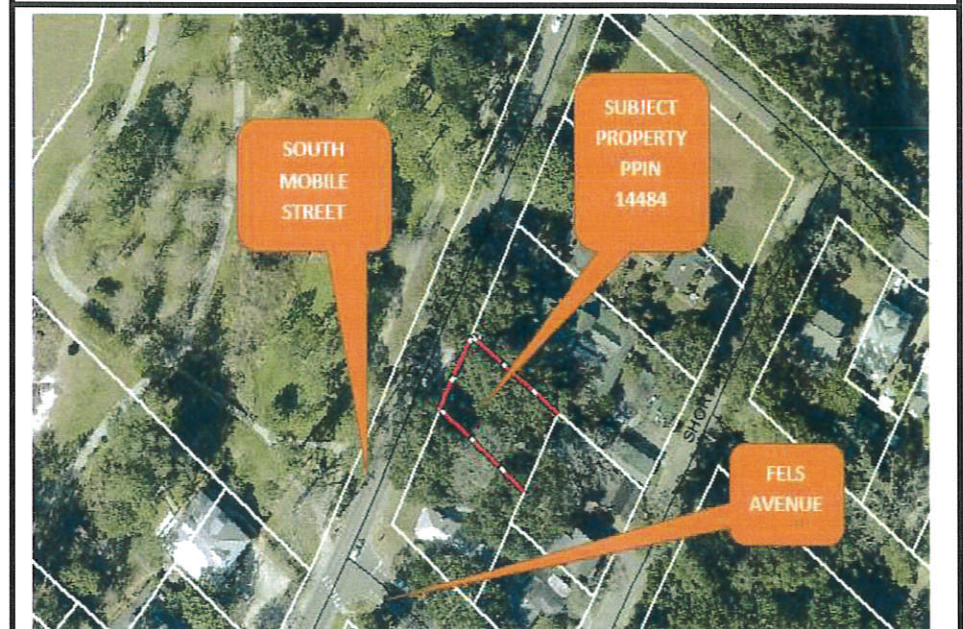
14484

Report prepared by:

J. Buford King
City Planner

Recommendation:

Approval



Summary of Request:

The applicant is requesting a variance from the front setback line requirements of the City of Fairhope Zoning Ordinance. The applicant provided a site plan depicting a proposed home to be constructed on the lot associated with PPIN 14484 with a 5'-0" encroachment upon the front setback line. The subject property is zoned B-3a Tourist Lodging District.

Additional Background Information

The applicant states on its application "the footprint of the lot is too small to build a home using the current setbacks". B-3a zoning requires the dimensions, as indicted in Article III, Section "C" of the City of Fairhope Zoning Ordinance in the excerpt below:

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre(UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by principle structure	Max. height
			Front	Rear	Side	Street side		
B-3a	7,500 s.f./-	60'	30'	35'	10'		30%	30'1

The existing lot, as indicated on the Baldwin County parcel viewer, is 64' wide and 101.2' long, with a lot area of approximately 6,514sf as calculated by ArcGIS, shown in the excerpt below:

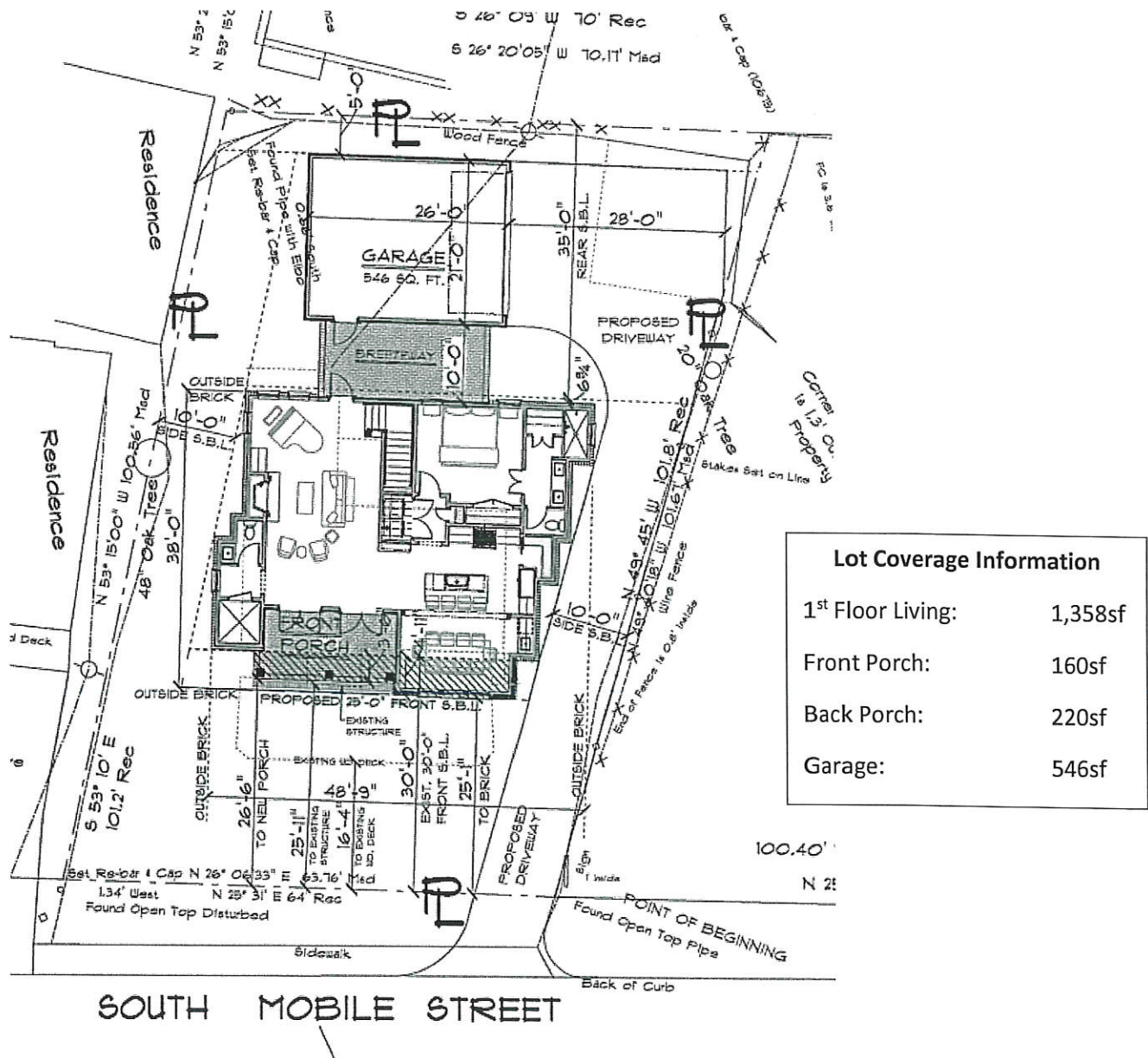
The screenshot shows a parcel viewer interface. On the left, there is an 'Identify' panel with a legend showing 'bc_base.DBO.Revcom_Edit_parcel' and a specific parcel ID '05-46-03-37-0-010-006.505'. Below the legend, the 'Location' is given as '1,838,826.376 190,165.117 Feet'. A table of fields and values is displayed, including OBJECTID (76973), SYMBOL (0), PID (05-46-03-37-0-010-006.505), PIN (14484), PAR_NUM (006.505), CALC_ACRE (0.149541), TOWNSHIP (6S), RANGE (2E), COUNTY (05), LOCATOR (46), PLS_AREA (03), SECTION_ (37), LAND_GRANT (Baron de Feriet), Q_SECTION (0), MAP_BLOCK (010), CIT_LIM (Fairhope), SUB_DIV (03MB), LOT_NUM (<null>), GlobalID ({442172B9-6A1D-4274-869E-4354C4B1E710}), Shape (Polygon), SHAPE.area (6513.997676), and SHAPE.len (334.702871). The main map area shows several parcels in blue, with the subject parcel highlighted in yellow and labeled '6.505'. A popup window titled '(1 of 2)' provides details for 'Parcels: FST GAMBINO, GILBERT R ETAL GAMBINO, BAR', including PIN 14484, PID 05-46-03-37-0-010-006.505, Name FST GAMBINO, GILBERT R ETAL GAMBINO, BAR, Address1 107 S MOBILE ST, City FAIRHOPE, State AL, and Zip 36532. The map also shows surrounding streets: S MOBILE ST, SHORT ST, and RT ST.

An excerpt of the proposed site plan included with subject application is depicted on the next page below. The requested variance requests a 5'-0" encroachment onto the front building setback line. Because PPIN 14484 is an existing non-conforming lot size in zoning district B-3a, the City of Fairhope zoning ordinance contains provisions related to building setback lines that are applicable to subject property. However, the

requested encroachment onto the 30' front setback is not eligible for an administrative front setback adjustment as allowed by Article VII, Section D.3. of the zoning ordinance, which states:

3. The front setback (and, on corner lots, the street side setback) shall not apply to any lot where the average setbacks in the same block and within 200 feet of the subject lot is less than the minimum setback required for the district. In such cases, the proposed building may be aligned with the building's existing on either side thereof.

The applicant provided a survey of front building setback lines as allowable by Article VII, Section D.3., however the front setback lines of the adjacent structures south and north of subject property are 30.1' and 36.3', respectively. As a result, aligning the new structure with the adjoining structures does not reduce the required front building setback line, requiring the 5' setback line adjustment contemplated by subject request. An excerpt of the proposed site plan requesting a 5' setback line reduction is shown below:



As stated previously PPIN 14484 has a lot area of approximately 6,514sf. The lot coverage allowance of B-3a zoning is 30%, resulting in approximately 1,954sf of available lot coverage by the principle structure. The principle structure lot coverage chart on the previous page, excerpted from the proposed site plan, is

1,738sf and is allowable for the lot. The rear yard area, as calculated by ArcGIS for PPIN 14484 is approximately 2,421.6sf. The allowable accessory structure lot coverage for residentially-zoned districts is 25%, or 605sf (if a residential standard is applied to subject property). The garage as an accessory structure with a proposed lot coverage of 546sf is acceptable and would also be allowable in a residentially-zoned area. With the exception of the 5' front setback encroachment, the proposed structure otherwise conforms with the zoning ordinance.

Comments:

The City of Fairhope Zoning Ordinance defines a variance as follows:

Variances: A modification of the strict terms of the relevant regulations in a district with regard to placement of structures, developmental criteria or provision facilities. Examples would be: allowing smaller yard dimensions because an existing lot of record is of substandard size; waiving a portion of required parking and/or loading space due to some unusual circumstances; allowing fencing and/or plant material buffering different from that required due to some unusual circumstances. Variances are available only on appeal to the Board of Adjustment and subject to satisfaction of the standards specified in this ordinance.

The Board of Adjustments is authorized to grant variance through Article II.A.d(3) which says the following:

d. Duties and Powers: The Board shall have the following duties and powers:

(3) Variances - To authorize upon appeal in specific cases variance from the terms of this ordinance not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Prior to granting a variance, the Board shall find that:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;

(b) The application of this ordinance to the particular piece of property would create an unnecessary hardship;

(c) Such conditions are peculiar to the particular piece of property involved; and,

(d) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

The Ordinance provides guidance for variance requests through the following criteria:

Article II.C.3.e.

Criteria – (1) An application for a variance shall be granted only on the concurring vote of four Board members finding that:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;

(b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.

(c) Such conditions are peculiar to the particular piece of property involved; and

(d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and

intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

When a variance is granted by the Zoning Board of Adjustment it has the following effect:

Article II.C.3.g.

Effect of Variance - Any variance granted according to this section and which is not challenged on appeal shall run with the land provided that:

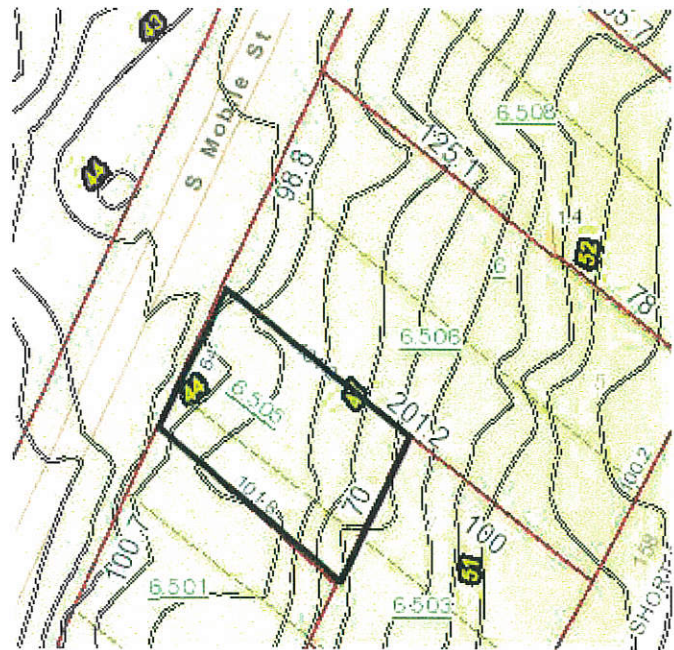
(1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and

(2) The variance is recorded with the Judge of Probate.

Analysis and Recommendation: Variance Criteria

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.

Response: The subject property is generally rectangular in shape and approximately 6,514 sf, or slightly more than 1/7 acre in size. The shape of the lot is very slightly irregular due to the angled west and east property lines though the north and south property lines appear to be parallel. The lot size is approximately 1,000sf less than the minimum lot size required for a lot zoned B-3a, and therefore demonstrates an existing nonconformity. The lot has no visible extraordinary or exceptional topographical conditions and rises slightly from west to east from an elevation of 44' to 48' as seen in the topographic map at right:



The applicant indicates the hardship created by the size, shape, or topography of the subject property “is too small to build a home using the current setbacks.” The subject property is approximately 1,000sf smaller than the minimum lot size of a lot zoned lot B-3a, and therefore is a “non-conforming lot” though the requested lot coverage is allowable with the required setbacks applied. Further, the provision within the City of Fairhope zoning ordinance related to non-conforming lots does not result in an administrative setback line adjustment, because the existing front building setback lines of the existing structures south and north, respectively of subject property are 30.1’ and 36.3’. However, staff acknowledges the existing lot, though it contains a conforming lot width of 64’, is approximately 18’ shorter than would otherwise be required to attain a lot size conforming to B-3a zoning requirements. Staff understands the conceptual need to allow the front setback variance. Further, the floor plan of the proposed house to be constructed on subject property has been redesigned since case number BOA 18.14 was originally heard by the Board of Adjustment, resulting in a setback variance request

reduction from 10' to 5'. Staff believes the 5' front setback line request is the minimum deviation from the zoning ordinance necessary to allow the use of subject property for the desired residential structure.

(b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.

As stated previously the requested lot coverage appears to comply with the zoning ordinance utilizing the required side and rear setbacks, and the property's non-conforming size has generated the request for a 5' setback variance. As a result, it appears a residential structure of sufficient size may be constructed on the subject property and the property's shape, and topography does not preclude the use of the property for residential purposes, but the property's size possibly represents a hardship contemplated by the zoning ordinance. Staff believes the requested 5' front building setback line variance appears to reflect the minimum deviation from the zoning ordinance necessary to allow the subject property to be utilized to construct the requested residential structure.

(c) Such conditions are peculiar to the particular piece of property involved.

Response: As stated in sections (a) and (b) above, staff understands the conceptual desire for a front setback variance on subject property. Staff does not necessarily object to a variance that allows the proposed site plan to compensate for the lot's non-conforming size, which is peculiar to the subject property. Staff believes the requested 5' front building setback line variance appears to reflect the minimum deviation from the zoning ordinance necessary to allow the subject property to be utilized to construct the requested residential structure.

(d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

Response: Staff acknowledges the conceptual need for setback variances on subject property and does not necessarily object to a variance that allows the proposed site plan to compensate for the lot's non-conforming size. Staff believes if the minimum deviation from the zoning ordinance required to cure the non-conformity is proposed, that minimum deviation is unlikely to cause substantial detriment to the public and impair the purposes and intent of the zoning ordinance.

Staff Recommendation:

Staff recommends case number BOA 18.14 request for setback variance for PPIN 14484, 151 S. Mobile Street be **APPROVED**. Staff acknowledges the existing lot is approximately 1,000sf smaller, and approximately 18' shorter than a conforming lot located within the B-3a zoning district, and the survey provided by the applicant as allowable by Article VII, Section D.3. does not result in an administrative front setback adjustment that reduces the amount of the front setback line. Staff believes the requested 5' front building setback line variance appears to reflect the minimum deviation from the zoning ordinance necessary to allow the subject property to be utilized to construct the requested residential structure.

Prepared by:
J. Buford King
City Planner

Site Photos



Looking east toward subject property
From west side of S. Mobile Street



Looking northeast toward subject
property from west side of S. Mobile
Street

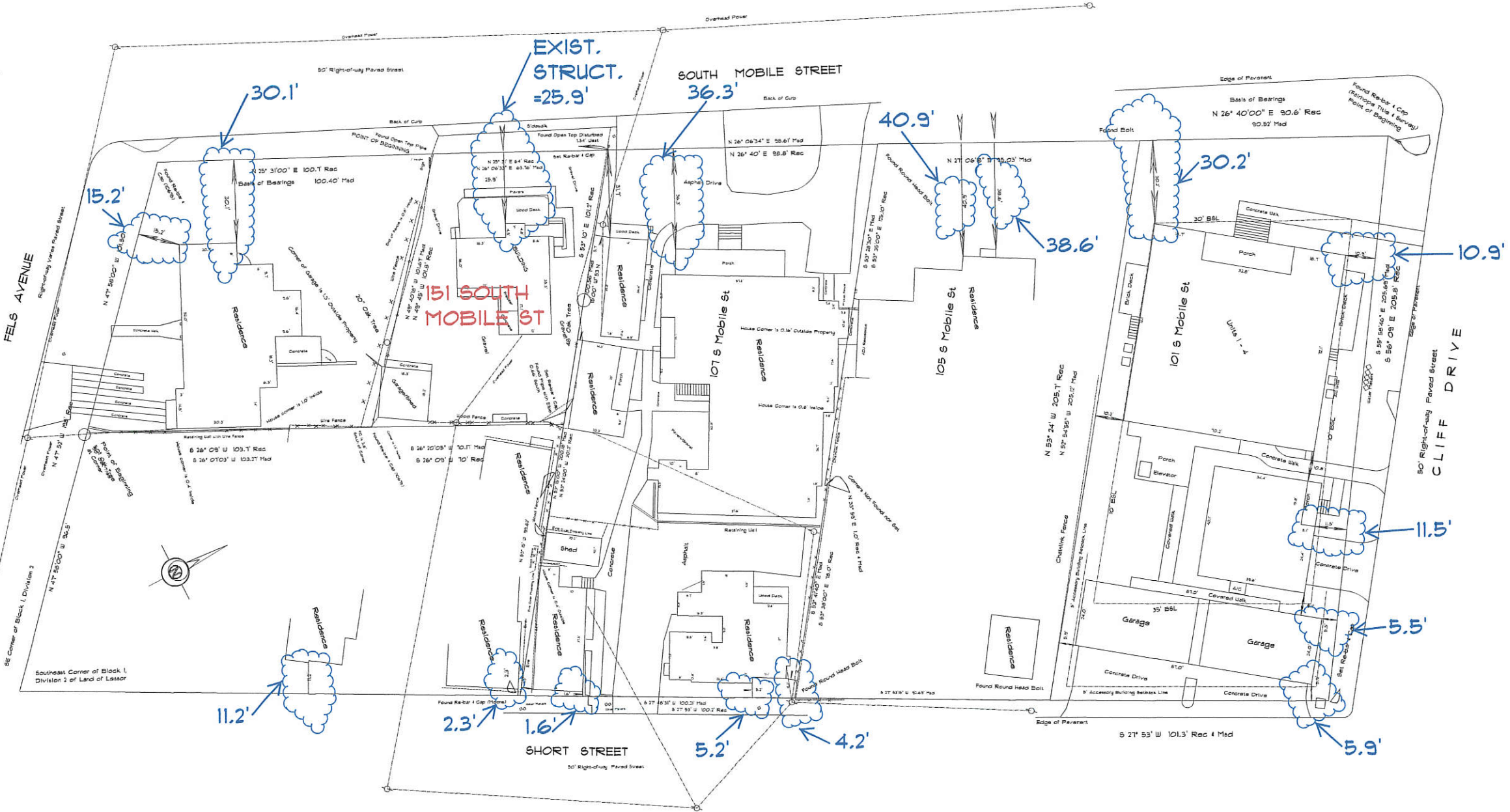


Looking southeast toward subject property
from edge of right-of-way



Looking east toward subject along north
property line of PPIN 14484

- SURVEYOR'S NOTES:**
- All measurements were made in accordance with U.S. Standards.
 - Description as furnished by Client.
 - There may be Reasoned or Unrecorded Deeds, Easements, rights-of-way or other incumbrances which could affect the boundaries of said properties.
 - There are NO attempts to determine the existence, location or extent of any subsurface features such as Electric Lines, Underground Utilities, Footings, etc.
 - Bearings and Distances shown herein were "Computed" from actual field bearings.
 - The Backs of Bearings for this Survey are as shown herein.
 - There are NO attempts made to locate any Environmental Hazards such as but not limited to Gas Leaks, Fuel Tanks, etc.
 - Corner Markers Verify location, Location of Survey with the proper authorities before any construction is to be started.
 - Refer to Recorded Deeds, Plans, Restrictive Covenants for any additional information.
 - Measurements of the Residences are exterior dimensions and are not to be used for calculating square footage of Residences.
 - Flood Zones are noted from the current FEMA maps.
 - Limits of proposed Residences to be situated are as per permit restrictions.
 - Verify any Building setbacks and Building location with the proper authorities before any construction can begin.
 - This Plan or Map is the property of Moore Surveying, Inc. and shall remain in its custody for the use of the Client. Name and may not be used by a Third Party.
 - This Survey is valid for 30 days from the date of survey and it is NOT Transferable to a Third Party and may NOT be used for any other purpose without prior written consent from Moore Surveying, Inc. or Rick Moore.
 - This Survey is based upon existing information found at herein sites and does not purport to represent a restatement of the Government Survey.



TOTAL FT. = 275.5'
 275.5'/16 PROPERTIES WITHIN 200' = 17.2'

17.2' = THE AVERAGE SETBACK WITHIN 200' OF
 151 SOUTH MOBILE STREET PROPERTY

MOORE SURVEYING, INC.
 PROFESSIONAL LAND SURVEYING

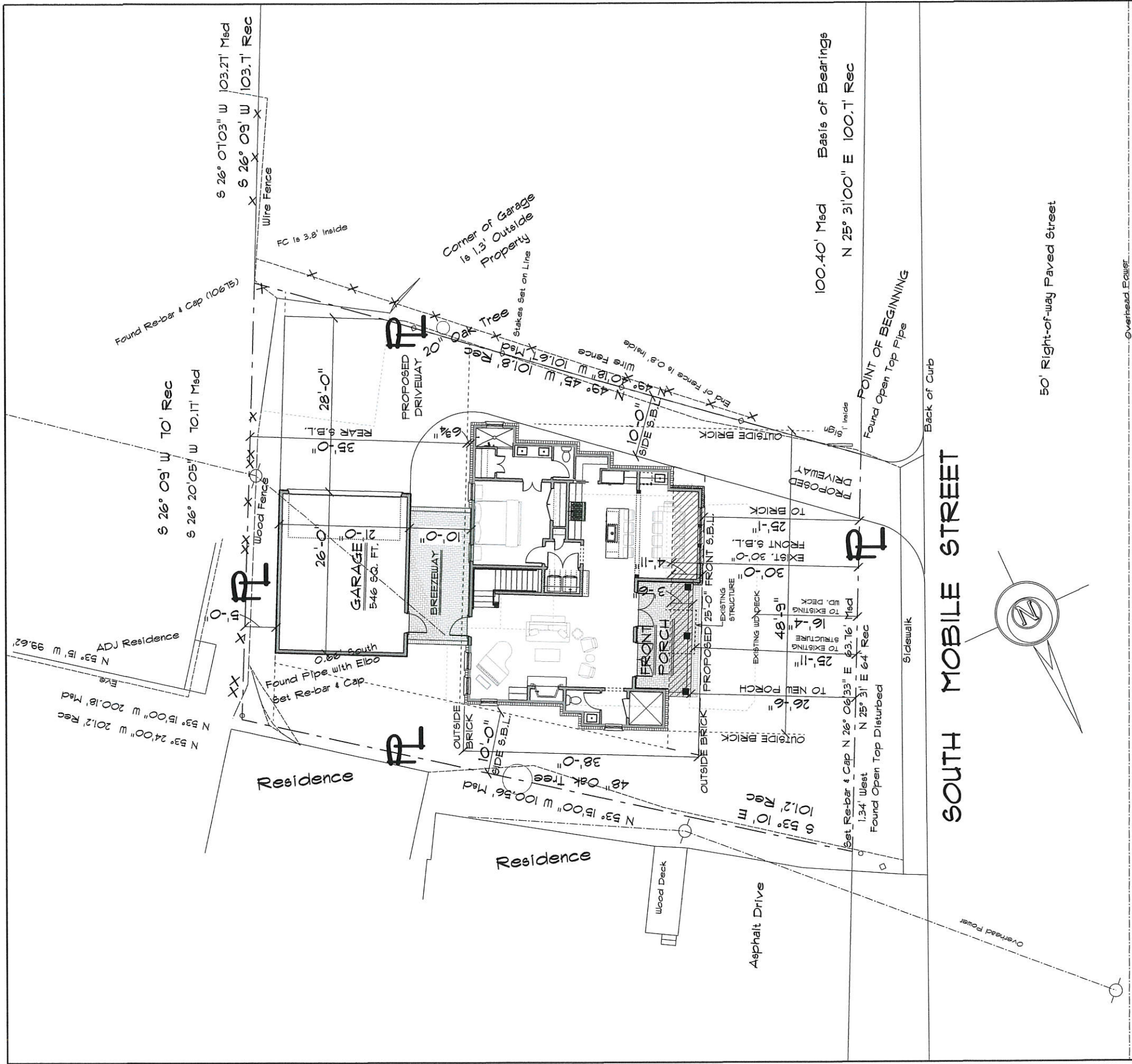
555 NORTH SECTION STREET,
 FAIRHOPE, ALABAMA 36532
 PHONE (251) 928 - 6111
 Email: mooresurveying@bellsouth.net

NOT VALID WITHOUT AN
 EMBOSSED SEAL OR
 ORIGINAL SIGNATURE. ALL
 COPIES AND FAXES ARE
 INVALID AND MAY NOT
 BE USED FOR ANY PURPOSE.

Job No.	2018 134b
Date	12/28/2018
Field Work Date	12/27
Drawn By	SMW
Scale	1" = 20'
Revisions	

NOT TO SCALE

Location Survey for
 RICK GAMBINO



NOTES:

1. CITY WATER & SEWER LINES ARE AVAILABLE AT THIS SITE. THE PLUMBING CONTRACTOR SHALL VERIFY LOCATIONS OF ALL EXISTING UTILITIES AND SUBMIT DETAILS SHOWING THE ROUTING PLANNED PRIOR TO CONSTRUCTION.
2. CONTRACTOR SHALL VERIFY ALL SITE CONDITIONS, CODE REQUIREMENTS, SUBDIVISION COVENANTS, SETBACKS AND ALL OTHER MATTERS REQUIRED BY ALL PREVAILING AUTHORITIES PRIOR TO COMMENCEMENT OF CONSTRUCTION.
3. OWNER AND FOUNDATION CONTRACTOR SHALL VERIFY LOCATION AND ORIENTATION OF THE HOUSE ON THE PROPOSED LOT PRIOR TO CONSTRUCTION.
4. ALL ELEVATIONS ARE APPROXIMATE AND SHALL BE VERIFIED BY OWNER/BUILDER PRIOR TO CONSTRUCTION.

PLOT PLAN
SCALE: 1" = 10'-0"

**REAR DETACHED ACCESSORY STRUCTURE
LOT COVERAGE CALCULATIONS**

35'-0" x 10'-0" = 2,450
 2,450 x 25% = 612.5 SQ. FT. (ALLOWED REAR DETACHED ACCESSORY STRUCTURE)
 DETACHED GARAGE: 546 SQ. FT.
 TOTAL REAR ACCESSORY STRUCTURES: 546 SQ. FT.

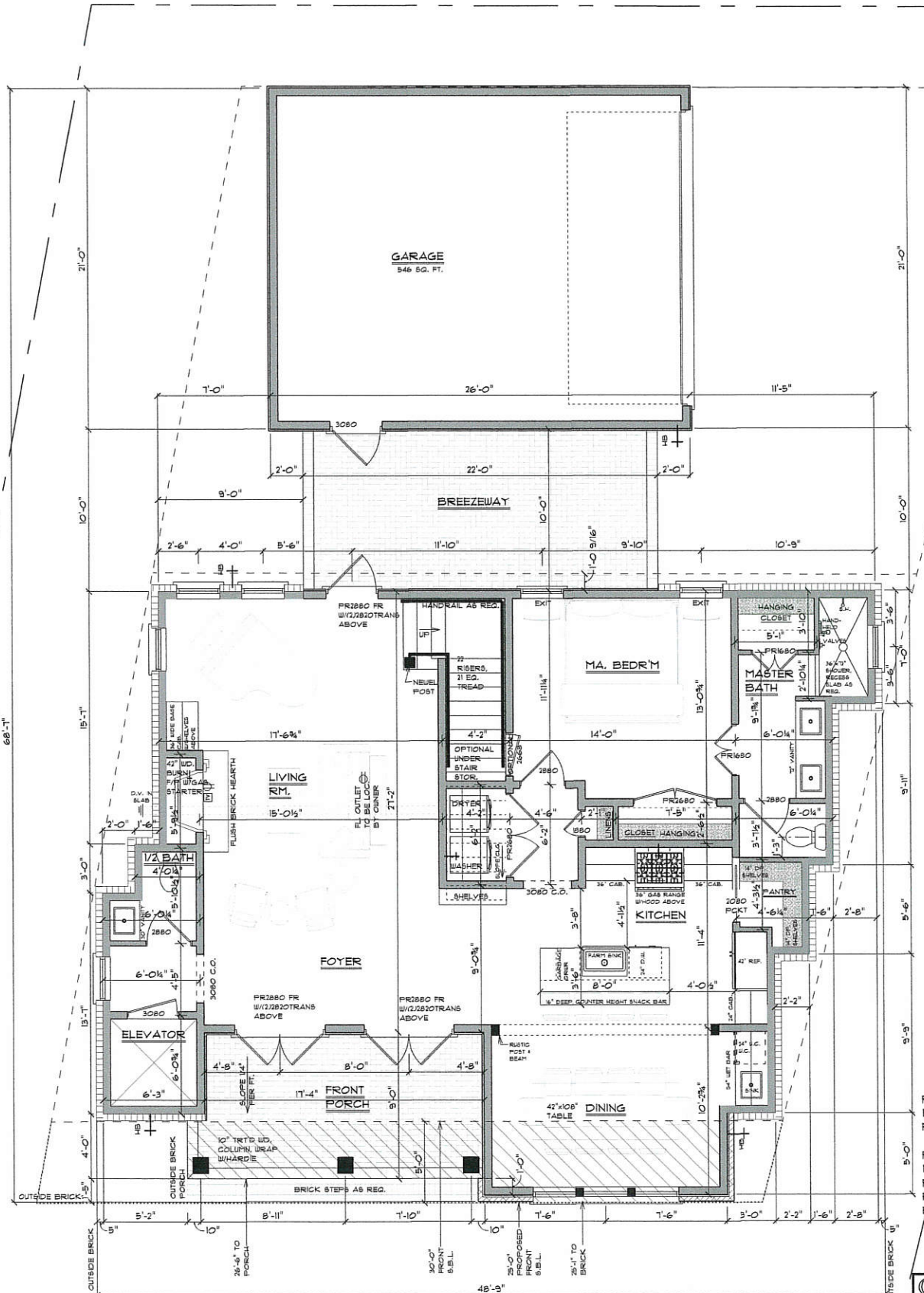
RICK GAMBINO
 151 SOUTH MOBILE STREET
 FAIRHOPE, AL
 PRELIMINARY PLANS: 8-10-18, 8-14-18, 12-12-18, 12-26-18
 1-10-19
 PROGRESS SET:
 FINAL REVIEW:
 FINAL PRINT:

CHATHAM HOME PLANNING
 DAPHNE, ALABAMA
bobchatham.com
 Date: 1/10/19
 Drawn By: KATHY NICHOLAS
 Scale: S.P.
 Sheet Number: 0
 Plan Number: XXXX-A-X

Chp

48" Oak Tree

20" Oak Tree



AREAS:

1st FLOOR LIVING:	1358 SQ. FT.
2nd FLOOR LIVING:	1164 SQ. FT.
TOTAL LIVING:	2522 SQ. FT.
FRONT PORCH:	160 SQ. FT.
BACK PORCH/BREEZEWAY:	220 SQ. FT.
GARAGE:	546 SQ. FT.
TOTAL UNDER ROOF:	3448 SQ. FT.

RICK GAMBINO
151 SOUTH MOBILE STREET
FAIRHOPE, AL

PRELIMINARY PLANS: 8-10-18, 8-14-18, 12-12-18, 12-26-18
1-10-19
PROGRESS SET:
FINAL REVIEW:
FINAL PRINT:

12'-0" CEILING 1st FLOOR
10'-0" CEILING 2nd FLOOR

© copyright 2018 CHATHAM HOME PLANNING

CHATHAM HOME PLANNING
DAPHNE, ALABAMA (251) 628-7285

bobchatham.com

Date: 1-10-19	Drawn By: KATHY NICHOLAS
Scale:	Sheet Number: 2
Plan Number: XXXX-A-X	

chp

1st FLOOR PLAN
SCALE: 1/8" = 1'-0"



Board of Adjustment

January 24, 2019

Case: BOA 19.01 101 Lottie Lane Unit 6

Project Name:

101 Lottie Lane
Special Exception Clinic

Property Owner / Applicant:

Jesse Kaylor/Almand
Westbrook

General Location:

Southeast corner of Fairhope
Avenue and Lottie Lane

Request:

Special Exception to allow use
for a clinic

Zoning District:

B-2 General Business District

PPIN Number:

14474

Report prepared by:

Mike Jeffries
Planning Technician, QCI

Recommendation:

Approval



Summary of Request:

The applicant is requesting a Special Exception to allow ADHD Medical Clinic of Mobile, PC at 101 Lottie Lane Unit 6. The property is zoned B-2 General Business District and the requested use is permitted only on appeal and subject to special conditions.

Comments:

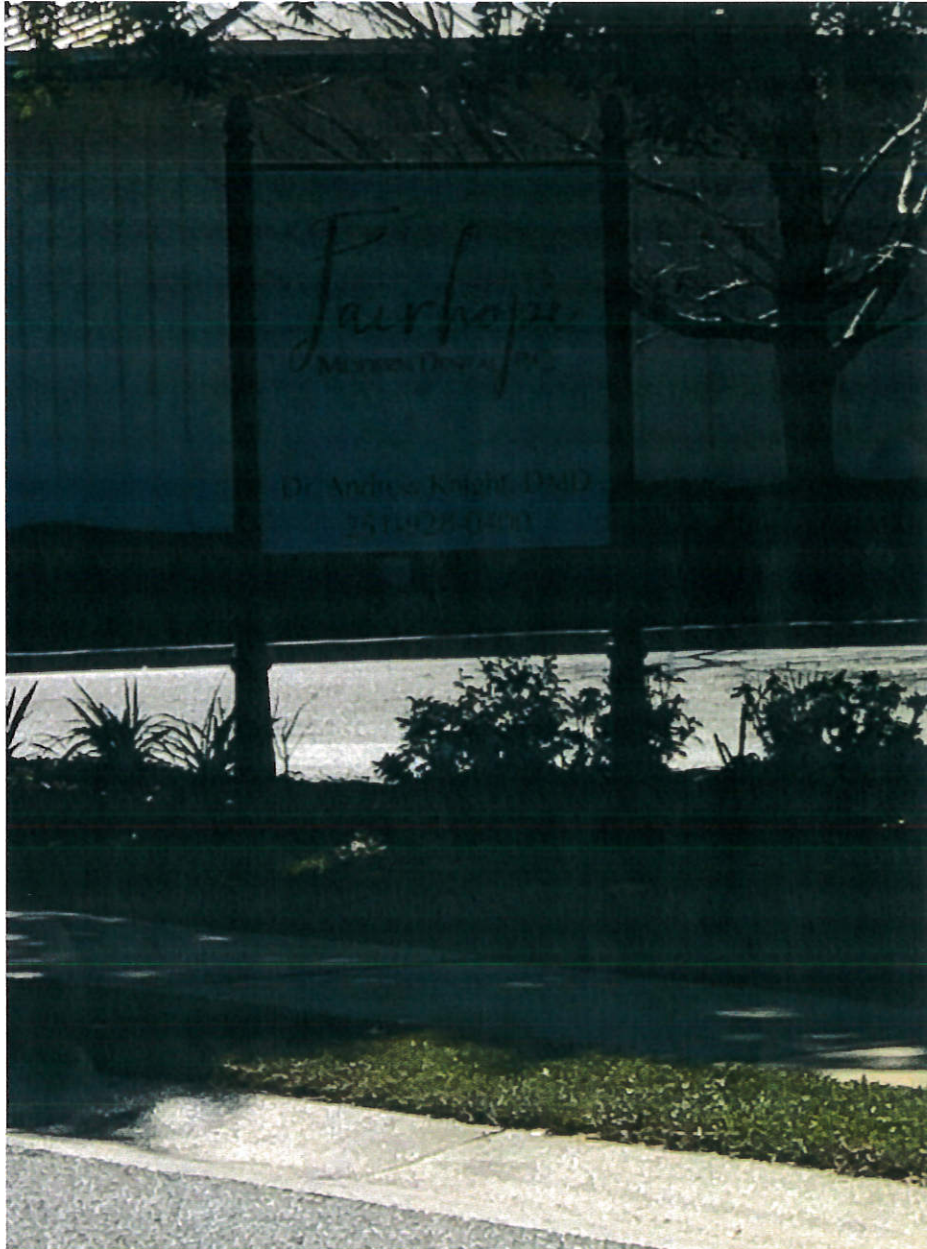
The City of Fairhope Zoning Ordinance defines a Special Exception as follows:

Special Exception: Permission granted by the Board of Adjustment for a use indicated in this ordinance as a use limited to a special exception procedure, subject to conditions specified in this ordinance and any conditions the Board deems necessary to ensure that community interests are furthered by permission of the use.

The property that this office unit is located on is bordered to the east by a residential neighborhood, to the south and west by other similar uses, and to the north across Fairhope Avenue by a bank and cancer clinic.







Staff Recommendation:

Staff recommends this use be approved. The surrounding properties and business are of the same or similar character of the property.

Prepared by:
Mike Jeffries
Planning Technician, QCI



APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: Administrative Appeal Special Exception Variance

Property Owner / Leaseholder Information

Name: Jesse Haylor Phone Number: _____
 Street Address: PO Box 2049
 City: Orange Beach State: AL Zip: 36561

Applicant / Agent Information

If different from above.

Notarized letter from property owner is required if an agent is used for representation.

Name: Almand Westbrook Phone Number: 251-422-6337
 Street Address: 101 Lottic Lane Unit 6
 City: Fairhope State: AL Zip: 36632

Site Plan with Existing Conditions Attached: YES NO

Site Plan with Proposed Conditions Attached: YES NO

Variance Request Information Complete: YES NO

Names and Address of all Real Property Owners within 300 Feet of Above Described Property Attached: YES NO

Applications for Administrative Appeal or Special Exception:

Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal.

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

Almand Westbrook
 Property Owner/Leaseholder Printed Name

12/18/18
 Date

Signature: [Signature]
 Fairhope Single Tax Corp. (If Applicable)
C. Michael Arnold FSTC. Sec.

RECEIVED
 DEC 31 2018
 BY: [Signature]



VARIANCE REQUEST INFORMATION

What characteristics of the property prevent / preclude its development?:

- | | | |
|--------------------------------------|------------------------------------|---|
| <input type="checkbox"/> Too Narrow | <input type="checkbox"/> Elevation | <input type="checkbox"/> Soil |
| <input type="checkbox"/> Too Small | <input type="checkbox"/> Slope | <input type="checkbox"/> Subsurface |
| <input type="checkbox"/> Too Shallow | <input type="checkbox"/> Shape | <input checked="" type="checkbox"/> Other (specify) |

Describe the indicated conditions: Property is zoned B2

How do the above indicated characteristics preclude reasonable use of your land?
Appeal required for medical clinic use

What type of variance are you requesting (be as specific as possible)?

Hardship (taken from Code of Alabama 1975 Section 11-52-80):

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done."

BOA Fee Calculation:		
	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
TOTAL:	\$	\$ 520

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

Almand Westbrook
 Property Owner/Leaseholder Printed Name

12/18/18
 Date

RECEIVED
 DEC 31 2018
 BY: SB

[Signature]
 Signature
C. M. [Signature]
 Fairhope Single Tax Corp. (If Applicable)
 FETC Secretary