



**City of Fairhope
Board of Adjustment and Appeals
5:00 PM
City Council Chambers
July 15, 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 Minutes

- April 15, 2019

3. Consideration of Agenda Items:

A. BOA 19.06 Public hearing to consider the request of John and Stephanie Casto for a variance to the front setback requirements for a principal structure at 103 Blakeney Avenue.
PPIN #: 14346

B. BOA 19.07 Public hearing to consider the request of Jason and Debra Schmitt for a Special Exception to allow Personal Storage at 926 Nichols Avenue.
PPIN #: 276903

C. BOA 19.08 Public hearing to consider the request of James and Elizabeth Lowery for an Administrative Appeal to Article IV, Section E. Parking of the City of Fairhope Zoning Ordinance.

D. BOA 19.09 Amendment to the City of Fairhope Board of Adjustment By-Laws regarding attendance of members.

E. BOA 19.10 Public hearing to consider the request of Holly Pursley for a variance to the separation setback requirements between a principal structure and an accessory structure for property located at 22283 Main Street.
PPIN #: 62424

F. BOA 19.11 Public hearing to consider the request of Refuge Coffee Roastery for a Special Exception to allow Limited Manufacturing for property zoned B-2 General

Business District and located in the Medical Overlay District, at 314 S. Greeno Road.
PPIN #: 21659

G. BOA 19.12 Public hearing to consider the request of Fairhope Public Utilities for a Special Exception to allow Public Utility for property zoned R-6 Mobile Home Park District, at 621 Nichols Avenue.
PPIN #: 61420

4. Old/New Business

5. Adjourn

The City of Fairhope Board of Adjustments and Appeals met on Monday, April 15, 2018 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.

Members Present: Anil Vira, Chairman; Harry Kohler; John Avent; Cathy Slagle; Wayne Dyess, Director of Planning; Mike Jeffries, Planning Tech.; and Emily Boyett, Secretary.

Absent: Troy Strunk, Vice-Chair; Dick Schneider; Christina Stankoski; and Buford King, Planner

The meeting was called to order at 5:00 PM. There were no minutes available to approve from previous meetings.

BOA 19.05 Public hearing to consider the request of James Leonard for a variance to the rear yard setback requirements for a principal structure at 110 Atkinson Lane.

Mr. Jeffries gave the staff report saying The applicant is requesting a 10' variance from the rear yard setback requirements of 35' in the City of Fairhope Zoning Ordinance *Article III, Section C.1 Table 3-2* to 25' to allow for the bathroom to be redesigned to include a laundry room which is currently located in the detached garage. The minimum lot area for the subject property is an existing non-conformity. The minimum for R-2 is 10,500sq feet and the subject property is approximately 6,361sq feet, roughly 60% of what is required by the current zoning ordinance. If the subject parcel was a conforming lot, the addition could be much larger and may not require a variance. Due to the setbacks on this non-conforming lot it makes it impossible to expand the house in the rear or front as the house already encroaches into both setbacks. The conditions are peculiar to this piece of property as it is an existing non-conforming lot due to its size and was subdivided before the current regulations were in place. Relief, if granted, would not cause any detriment to the public nor impair the intent of this ordinance. The Zoning Ordinance grants relief based on a particular piece of property having exceptional conditions. Staff recommends this request be **APPROVED**. The applicant's proposal appears to be as minimal as possible that will allow a small renovation to locate the laundry room in the primary residence while maintaining the required separation distance from the detached garage (accessory structure). The proposed addition would not have any negative effect on the surrounding area.

Clay Adams of WAV Architects spoke on behalf of the applicant saying most of the neighbors are favorable to the request. Ms. Slagle asked if there was any negative response from the neighbors and Mr. Adams responded no, not from the ones that were spoken with.

Mr. Vira opened the public hearing. Having no one present to speak, he closed the public hearing.

Mrs. Boyett stated a letter of support was received from Genie McCown.

Cathy Slagle made a motion to accept the staff recommendation to **APPROVE** due to the non-conforming lot size. Harry Kohler 2nd the motion and the motion carried unanimously with the following vote: AYE- Harry Kohler, John Avent, Anil Vira, and Cathy Slagle. NAY – none.

Having no further business, the meeting was adjourned at 5:08 PM.



Board of Adjustment

July 15, 2019

Case: BOA 19.06 103 Blakeney Avenue

Project Name:

103 Blakeney Avenue

Property Owner / Applicant:

John F. and Stephanie T. Casto

General Location:

Blakeney Avenue
approximately 150' west of
N. Summit St.

Request:

Front setback variance

Project Acreage:

1/4 acre approximately

Zoning District:

R-2 Medium Density Single
Family Residential

PPIN Number:

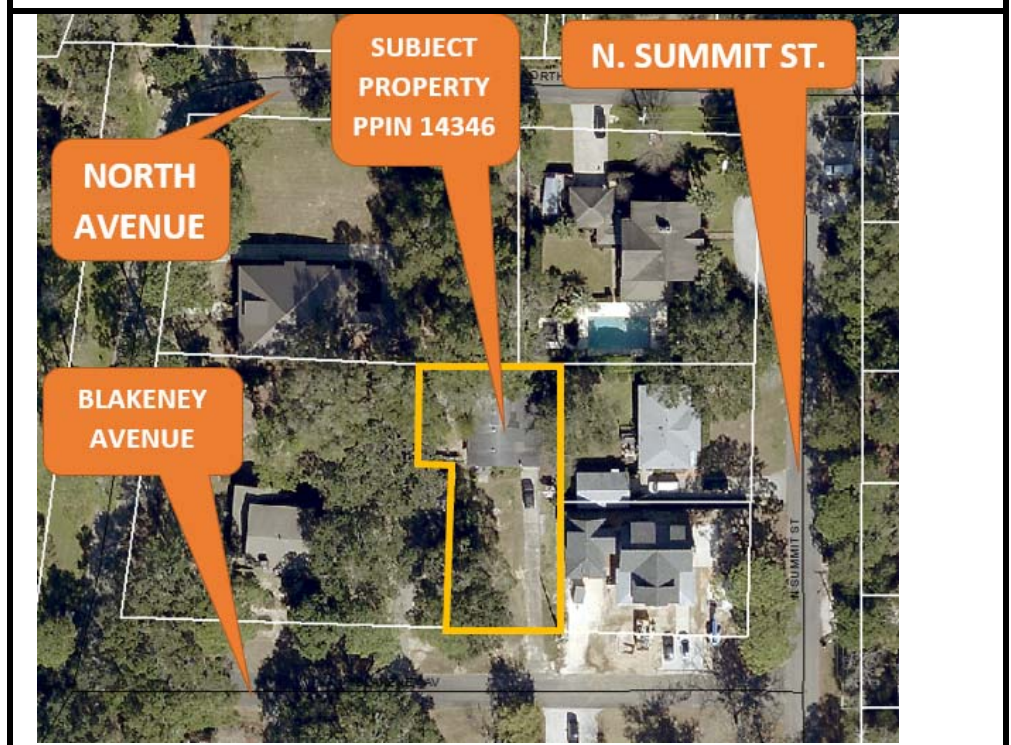
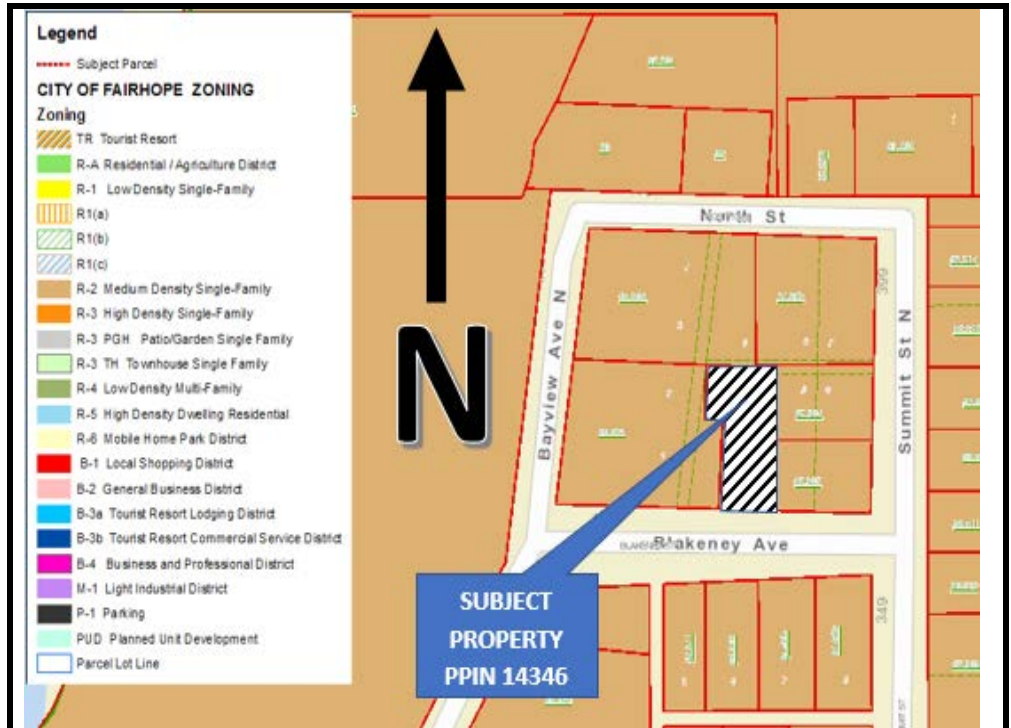
14346

Report prepared by:

J. Buford King
Interim Director of Planning
And Zoning

Recommendation:

Denial



Summary of Request:

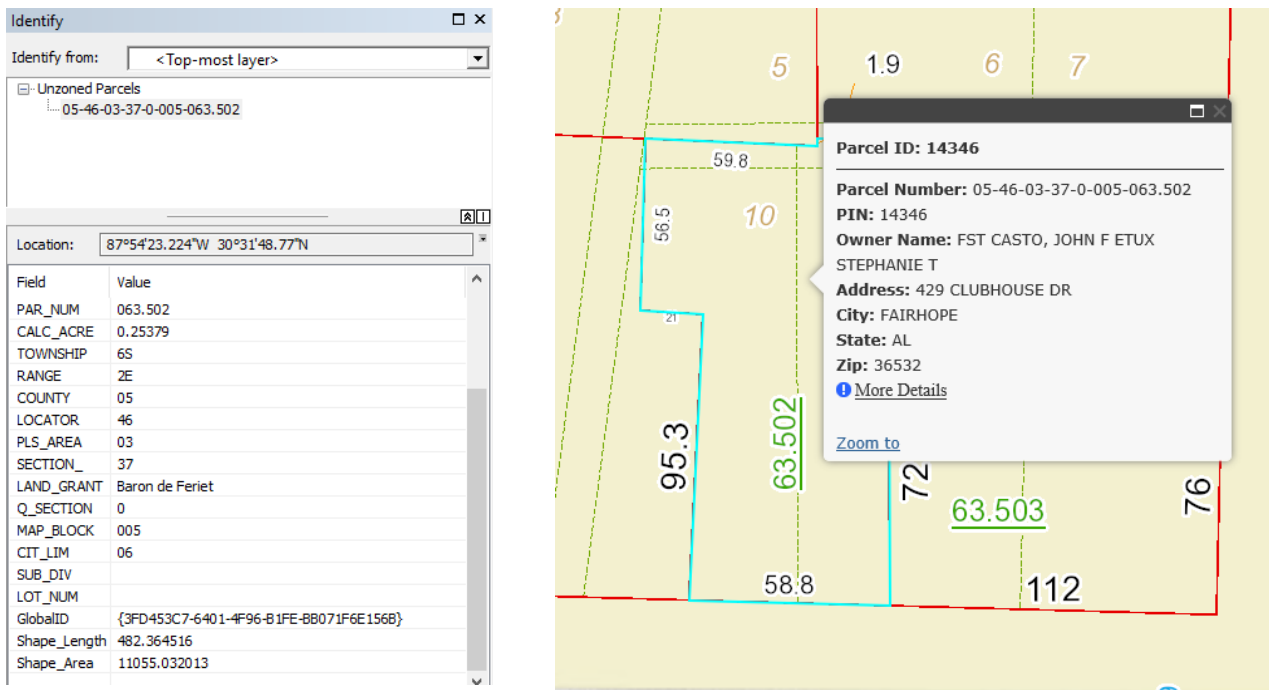
The applicant is requesting a variance from the front setback line requirements of the City of Fairhope Zoning Ordinance. The applicant provided a site plan depicting a proposed home to be constructed on the lot associated with PPIN 14346 with a requested front setback of 20’-25’ in lieu of the required 35’ front setback associated with the property’s R-2 Medium Density Single Family Zoning District.

Additional Background Information

The applicant states on its application “I would like to build a house as far forward on the lot so as to have a sufficient back yard”. R-2 Medium Density Single Family zoning district requires the following 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		
R-2	10,500 s.f./-	75'	35'	35'	10'	20'	37%	30'1

The existing lot, as indicated on the Baldwin County parcel viewer, is 58.8’ wide at the right-of-way (ROW), widening to approximately 79.8’ wide, and 154.9’ long, with a lot area of approximately 11,055.03sf as calculated by ArcGIS, shown in the excerpt below:



An excerpt of the proposed site plan included with subject application is depicted on the bottom of the following page. The requested variance indicates a reduction of the required 35’ front setback to 20’-25’. Because PPIN 14346 is an existing non-conforming lot width (58.8’ in lieu of the required 75’ lot width) in zoning district R-2, the City of Fairhope zoning ordinance contains provisions related to allowing variances to building setback lines that are applicable to subject property. It is possible, but not known if the requested setback reduction is eligible for an administrative front setback adjustment as allowed by Article VII, Section D.3. of the zoning ordinance, which states:

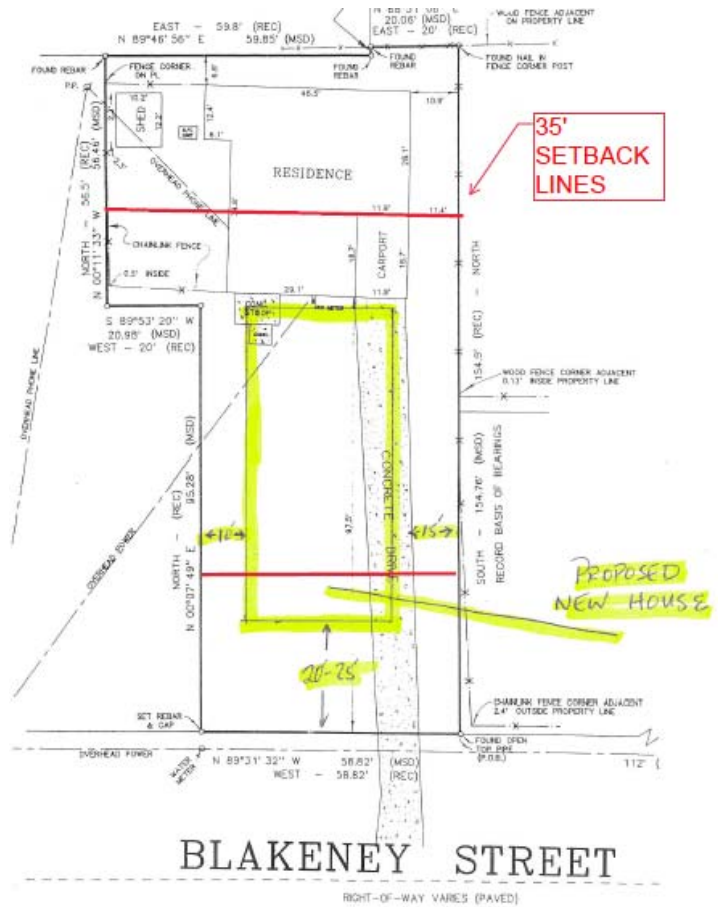
3. The front setback (and, on corner lots, the street side setback) shall not apply to any lot where the average setbacks in the same block and within 200 feet of the subject lot is less than the minimum setback required for the district. In such cases, the proposed building may be aligned with the building’s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

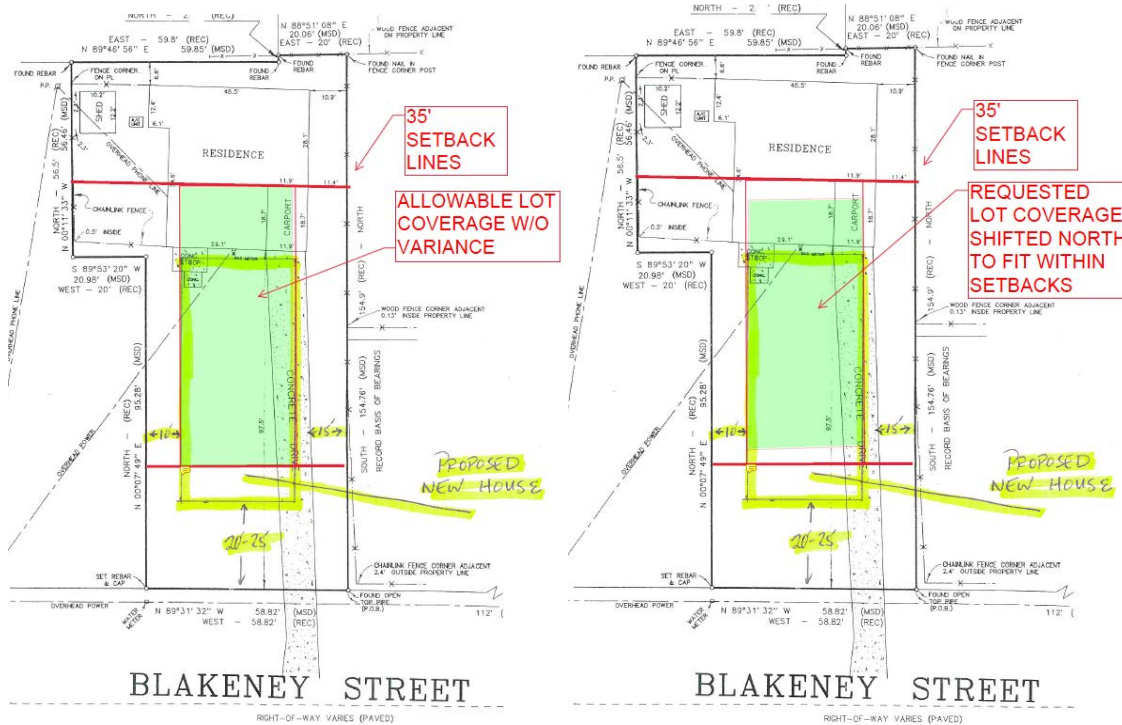
The applicant did not provide a survey of the front building setback lines as allowable by Article VII, Section D.3., for the purposes of requesting an administrative approval of a building alignment as noted above. Though not a survey, staff utilized the aerial photographs within Arc GIS to estimate the front setbacks of the existing structures within the same block, which are included in the chart below:

PPIN	Front Setback distance	Remarks
108949	35'	Assumed 2' overhang, measured as approximately 33' from ArcMap
14728	35'	Assumed 1' overhang, measured as approximately 36' from ArcMap
14931	40'	Measured to edge of roof rake, may have an overhang increasing setback up to 2'
14833	43'	Large (2/3 acre) lot
14416	58'	Large (nearly 2/3 acre) lot

Based upon the cursory survey performed above, the average front setback distance within the block containing PPIN 14346 is approximately 42'. The applicant may wish to conduct a professional survey of all properties within the same block as well as within 200' of subject property to determine if the average front setback is less than the required 35' front setback so that an administrative request may be submitted. An excerpt drawing of the proposed new residential structure is included below right, with the required 35' setbacks shown in red in their approximate locations:

It appears the proposed principle structure will sufficiently fit within the required setbacks without a setback variance. As stated previously PPIN 14346 has a lot area of approximately 11,055sf. The lot coverage allowance of R-2 zoning is 37%, resulting in approximately 4,090sf of available lot coverage by the principle structure. However, the lot coverage of the proposed structure appears to be approximately 2,544.46sf based upon the drawing furnished with subject application. Utilizing the required setbacks of 35' front and rear, 10' side (west side) and the requested 15' driveway side setback (east side) the allowable lot coverage, without a setback variance, is approximately 2,865sf. The drawing excerpt below left depicts the allowable lot coverage within the required setbacks in light green, and the drawing excerpt below right depicts the *requested* lot coverage in light green, shifted north to fit within the required 35' front and rear setbacks:





Comments:

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

Variations: 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. Variations 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) Variations - 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:

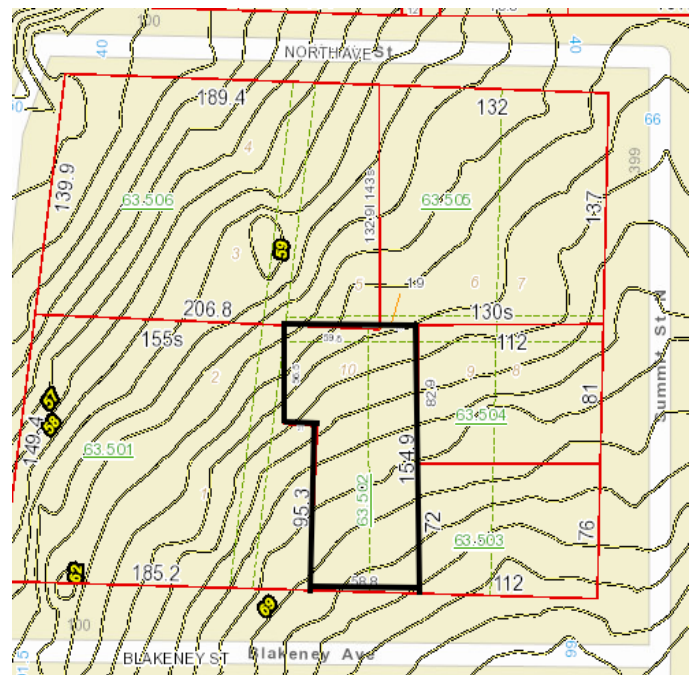
(1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and

(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 11,055 sf, or slightly more than 1/4 acre in size. The shape of the lot is generally rectangular, widening to a very slight “L” shape approximately 95.3’ into its northern depth. The lot size is approximately 555sf greater than the minimum lot size required for a lot zoned R-2, however the lot’s 58.8’ width along the ROW is less than the required 75’ lot width, and therefore demonstrates an existing nonconformity. The lot has no visible extraordinary or exceptional topographical conditions and rises gradually from northwest to southeast from an elevation of 63’ to 71’ 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 a “long narrow lot (58’ wide) [and] will require a long narrow house” and the applicant wishes to “build a house as far forward on the lot so as to have a sufficient back yard”.



The subject property is approximately 555sf larger than the minimum lot size (10,500sf) of a lot zoned lot R-2, and therefore is a conforming lot size. Further, the subject property widens to approximately 79.8' into the northern depth of the property, approximately 95.3' north of the ROW line. As a result, the rear yard contains the required 35' rear setback as well as a 79.8' width, greater than the required 75' lot width. As a result, and assuming demolition of the existing structure, the rear yard is of sufficient size and dimensions to comply with R-2 zoning. Staff recognizes the more narrow lot width along the ROW reduces the allowable lot coverage by a principle structure, however the requested lot coverage is less than the allowable lot coverage without the application of a setback variance. Further, the requested lot coverage may be placed on the subject property without the application of a setback variance.

(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 front, side, driveway side, and rear setbacks, and the property's dimensions allow the creation of rear yard of sufficient size, all without the application of a setback variance.

(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 width in order to acquire additional allowable lot coverage, which is peculiar to the subject property. However, the proposed lot coverage may be accomplished without a setback variance, and the requested setback variance does not appear to reflect the minimum deviation from the zoning ordinance necessary to allow the requested lot coverage to be accomplished.

(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 for a site plan to compensate for the effect of the lot's non-conforming on overall lot coverage. Staff believes the minimum deviation from the zoning ordinance required to cure the non-conformity or hardship has not been proposed, and recommends the case be denied as indicated in the staff recommendation below.

Staff Recommendation:

Staff recommends case number BOA 19.06, request for setback variance for PPIN 14346, 103 Blakeney Avenue be **DENIED**. Staff acknowledges the existing lot contains a more-narrow lot width along the ROW than the required lot width for R-2 zoning, however the proposed principle structure included with subject application fits within the required setbacks of the property without a setback variance. The applicant may wish to conduct a professional survey as allowable by Article VII, Section D.3. and request an administrative front setback adjustment depending upon the results of the survey.

Prepared by:
J. Buford King
Development Services Manager

Site Photos



Looking north toward subject property from Blakeney Avenue



Looking northeast toward subject property and PPIN 108949 beyond from Blakeney Avenue



Looking northwest toward subject property from edge of right-of-way along Blakeney Avenue



Looking northwest toward subject property along Blakeney Avenue with PPIN 14416 beyond



Board of Adjustment

July 15, 2019

Special Exception

Case: BOA 19.07 926 Nichols Avenue

Project Name:

926 Nichols Avenue

Property Owner / Applicant:

Debra Schmitt/Larry Smith, PE
S.E. Civil Engineering and Surveying

General Location:

South side of Nichols Ave.
approximately 750, east of the
intersection Greeno Rd and
Nichols Ave.

Request:

Special exception for Personal
Storage use in M-1

Project Acreage:

Approximately .5 acres

Zoning District:

M-1 Light Industrial District

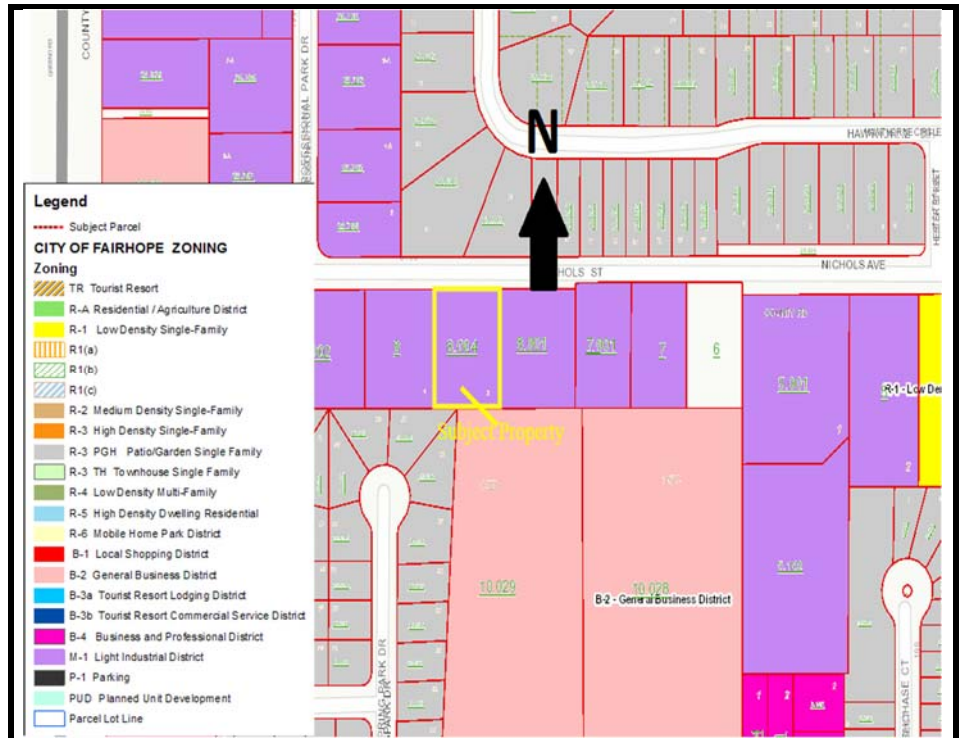
PPIN Number:

276903

Report prepared by:

Mike Jeffries
Planning Technician, QCI

Recommendation:



Summary of Request:

Larry Smith, PE with SE Civil, is requesting a Personal Storage use which is not allowed by right but by special exception in Fairhope’s Zoning Ordinance for the property located on 926 Nichols Avenue. The subject property is zoned M-1 Light Industrial District.

Comments:

The subject property is zoned M-1 Light Industrial District which is not allowed by right pursuant to Article III. Section B. Table 3-1: Use table but must go before the Board of Adjustments as a Special Exception. Special conditions are required to be met according to Article III Section D.8 referenced below:

8. Personal Storage

a. *Intent:* The intent of the special conditions for Personal Storage is to:

- Allow for personal storage services to be mixed with other compatible commercial uses;
- Ensure that personal storage facilities are located appropriately in order to minimize the impact on adjacent property; and
- Recognize that the design and scale of personal storage facilities can determine how well this use fits in with surrounding uses.

b. *Location Requirements:*

- (1) Exterior personal storage facilities on more than two acres shall be located only in the M-1 and M-2 districts and only by special exception.
- (2) Exterior personal storage facilities on less than two acres and indoor personal storage facilities may be located in the B-2 district and only by special exception.

c. *Site Requirements:*

- (1) All one-way drive aisles shall provide for one 10-foot wide travel lane. Traffic direction and parking shall be designated by signs or painting. **Requirement Met**
- (2) All two-way drive aisles shall provide for one 10-foot wide parking lane and two 12-foot wide travel lanes.
- (3) Two parking spaces, to be located at the project office for use of clients, shall be provided for the manager’s quarters plus one additional space for every 25 storage cubicles. **Requirement Met**
- (4) Any other site requirements determined through the special exception procedure to minimize impacts on adjacent property.

The applicant has provided a site plan showing 67 units with a management office. The parking requirements and drive aisle widths have been met.

Analysis and Recommendation:

The subject property is currently vacant with metal buildings on either side one being used for a gym “All around Fitness”.

The review criteria for a use appeal is as follows:

Article II. Section C.e(2)

Any other application to the Board shall be reviewed under the following criteria and relief granted only upon the concurring vote of four Board members:

(a) Compliance with the Comprehensive Plan;

Response: The Comprehensive Plan makes reference to the Village Node to the north of the subject property and to a Commercial Node to the south. It also shows the area along Nichols to be commercial. The Comprehensive Plan provides no further detail for this area.

(b) Compliance with any other approved planning document;

Response: None noted.

(c) Compliance with the standards, goals, and intent of this ordinance;

Response: The subject property is zoned M-1 and the Personal Storage is not allowed by right but permitted only on appeal to the Board of Adjustments and is therefore in keeping with the intent of the ordinance.

(d) The character of the surrounding property, including any pending development activity;

Response: The south side of Nichols Ave. east of Greeno Rd. is predominately either zoned M-1 or is unzoned property. The surrounding uses are commercial in nature except for R-3PGH Zoned subdivision to the north and a subdivision at the southwest rear property line where appropriate buffering is shown on the site plan and would be required.

(e) Adequacy of public infrastructure to support the proposed development;

Response: No issues noted. Any impacts would be minor in nature.

(f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;

Response: The subject property is developed on three sides and no negative impacts are anticipated.

(g) Compliance with other laws and regulations of the City;

Response: No issues noted.

(h) Compliance with other applicable laws and regulations of other jurisdictions;

Response: No issues noted.

(i) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;

Response: No issues noted.

(j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

Response: No issues noted.

(k) Overall benefit to the community;

Response: It is a low intense use that provides extra storage opportunities for the surrounding facilities as well as the neighborhood to the north.

(l) Compliance with sound planning principles;

Response: Staff believes this use is in keeping with sound planning principles.

(m) Compliance with the terms and conditions of any zoning approval; and

Response: No issues noted.

(n) Any other matter relating to the health, safety, and welfare of the community.

Response: No issues noted.

Recommendation: Staff recommends **APPROVAL** of the appeal for a Personal Storage use at 926 Nichols Avenue.



Board of Adjustment

July 15, 2019

Case: BOA 19.08 805 N. Section St.

Project Name:
805 N. Section St.

Property Owner / Applicant:
James Lowery/
Clay Adams WAV Architects

General Location:
West side of N. Section St.
Approximately 250' north of
the intersection of Volanta
Ave. and N. Section St.

Request:
Administrative Appeal
Parking

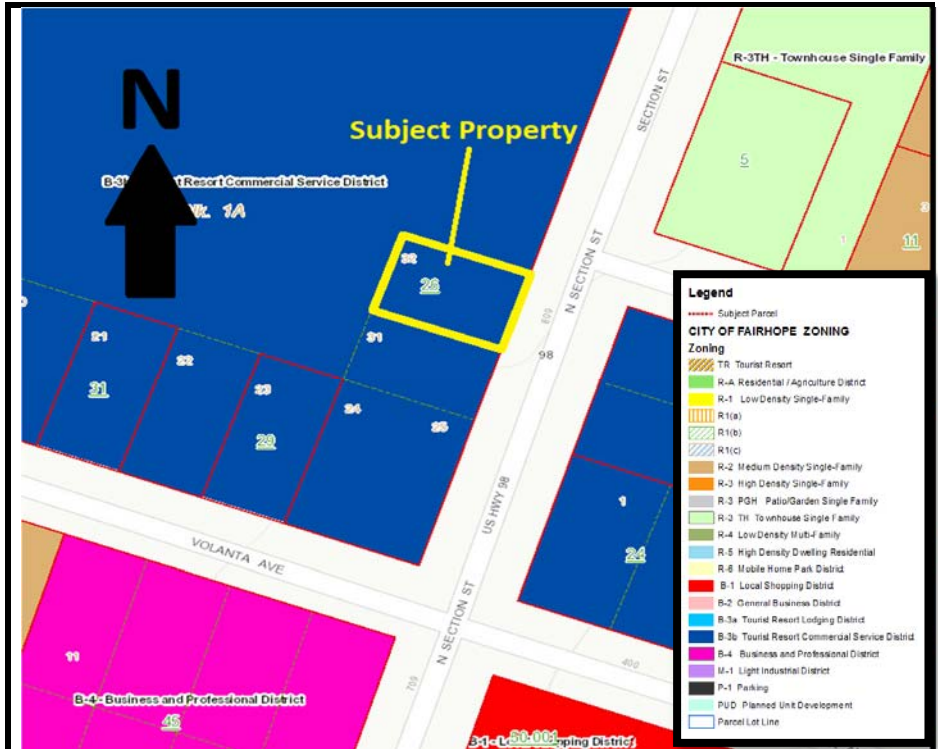
Project Acreage:
7,392sq feet

Zoning District:
B-3b - Tourist Resort Commercial
Service District

PPIN Number:
33061

Report prepared by:
Mike Jeffries
Planning Technician, QCI

Recommendation:
Approval with conditions

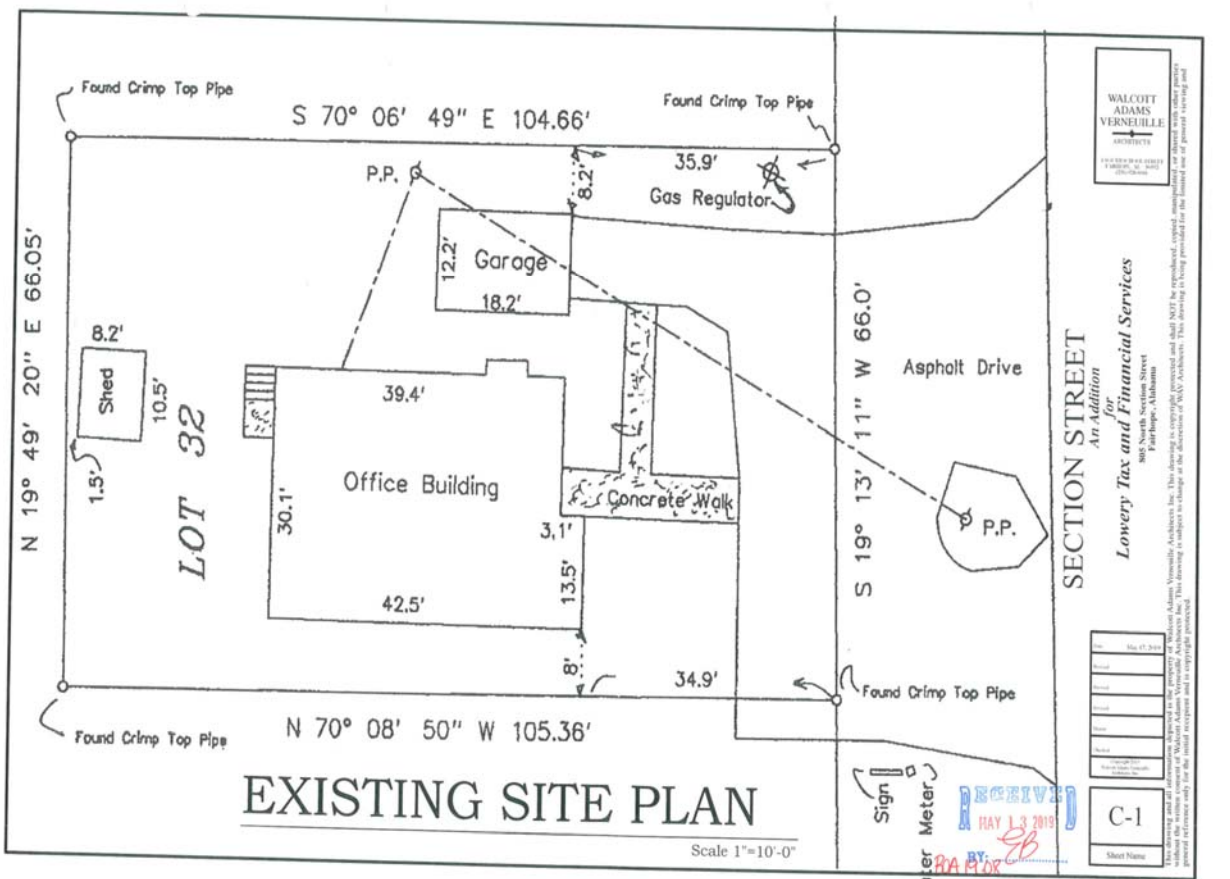


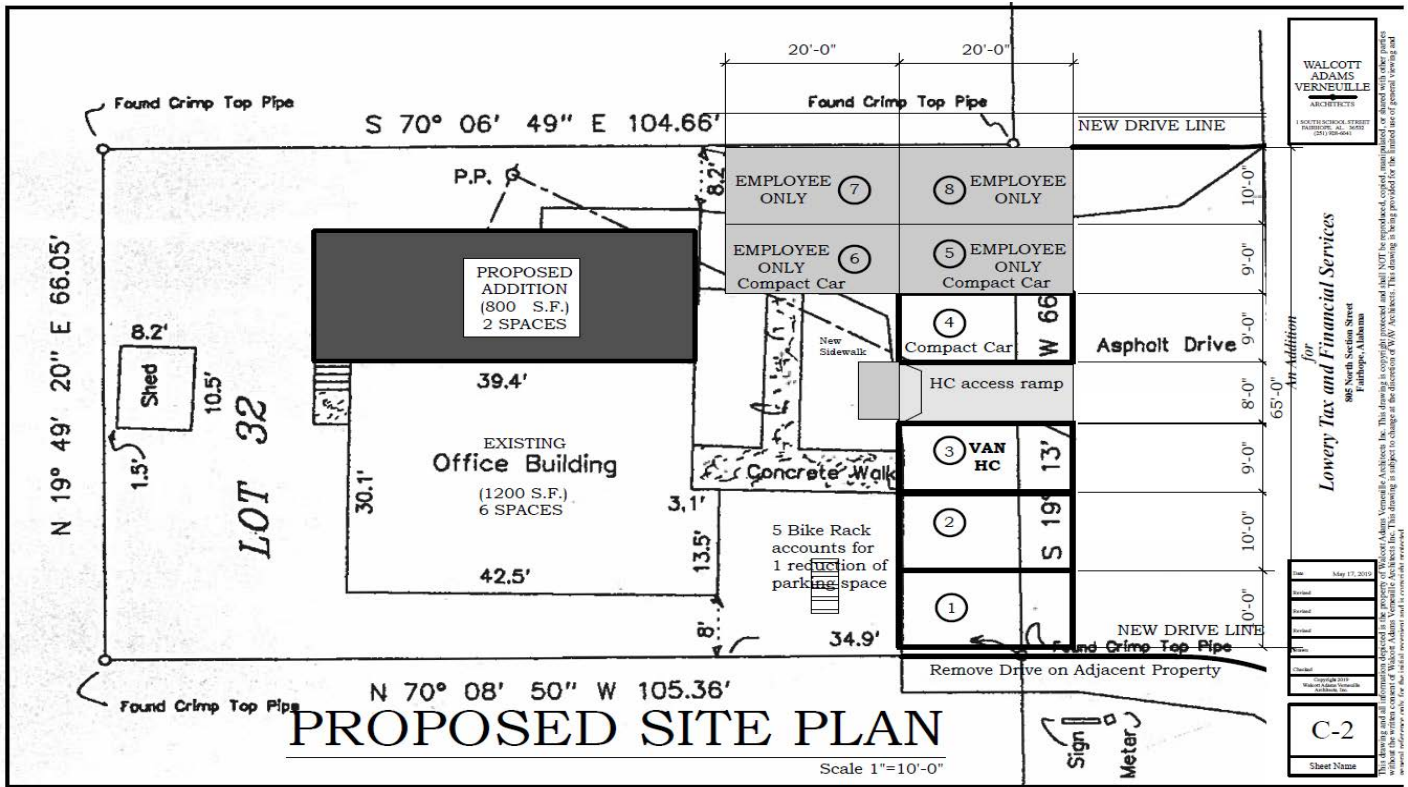
Summary of Request:

The applicant desires to add an addition to their existing office building to allow adequate room for their employees and provide privacy for their clients. The added square footage requires 2 additional parking spaces per Fairhope's Zoning Ordinance Article IV Section E.2 Table 4-3.

Land Use	Parking Required	
	whichever is greater.	
<i>Businesses:</i>		
General Retail and Office establishments	0 to 400 square feet of floor area -	4 parking spaces
	400 to 5000 square feet of floor area -	same as above plus 1 for each additional 400 square feet
	over 5000 square feet of floor area --	same as above plus 1 parking space for each additional 200 square feet

The applicant wishes to utilize a double stacked parking method for 4 employee parking spaces. Four other single parking spaces will be in front of the office bringing the total number of parking spaces to the required 8. They are also showing a proposed bike rack that could be used for 1 parking credit are electing to not remove any parking spaces.





Comments:

The applicant when he purchased the property was provided with an old zoning verification letter from 1974 that stated the property was zoned B-2. B-2 zoning does not have a rear set back line and would have allowed for a possible addition in the rear. Staff met with the applicant and architect and it was verified by reviewing archived zoning maps that the property was rezoned at some point to B-3b as early as 1986. The applicant proposed the idea of stacked parking for the employees. The Zoning Ordinance gives direction on parking but does not specifically allow or deny stacked parking therefore staff could not approve the parking and the applicant has made an appeal to the Board of Adjustments.

Under the direction of the Erik Cortinas the City of Fairhope’s Building Official the new addition and altering of parking will also allow upgrades to the building to provide a handicapped bathroom and a handicapped van accessible parking place.

The current driveway encroaches across the south property line. The new parking will remove the encroachment.

Staff does not see any detriment to the public good or to the character of the surrounding properties.

Staff Recommendation:

Staff Recommends approval of the stacked employee parking with the following conditions:

1. The employee parking spaces shall be clearly marked with appropriate signage and separate parking space striping.
2. All utilities will be marked at time of construction and any necessary relocations will be at the owners expense.

Prepared by:
Mike Jeffries
Planning Technician, QCI

MEMO

Date: June 7, 2019

To: Fairhope Board of Adjustment

From: Emily Boyett

Secretary

Re: By-Laws Attendance Amendment

Staff has prepared the proposed amendment to the City of Fairhope Board of Adjustment By-Laws Article III regarding attendance as per the Board's request. The intent of the proposed attendance language is to establish and clarify expectations for members of the City of Fairhope Board of Adjustment. The proposed language is as follows:

ARTICLE III

Attendance

Attendance at Board meetings by all regular members is mandatory. If in a calendar year any member should miss four (4) meetings, the Chairman shall notify the Fairhope City Council of said absences.



Board of Adjustment

July 15, 2019

Case: BOA 19.10 22283 Main St.
 Variance: Separation Setback

Project Name:

22283 Main St.

Property Owner / Applicant:

Holly G. Pursley

General Location:

West side of Main St.
 Approximately 1000' north of
 the intersection of Main St, State
 HWY 104, and US HWY 98.

Request:

Separation Setback Variance

Project Acreage:

Approximately 1.4 acres

Zoning District:

R-1 - Low Density Single-Family
 Residential District

PPIN Number:

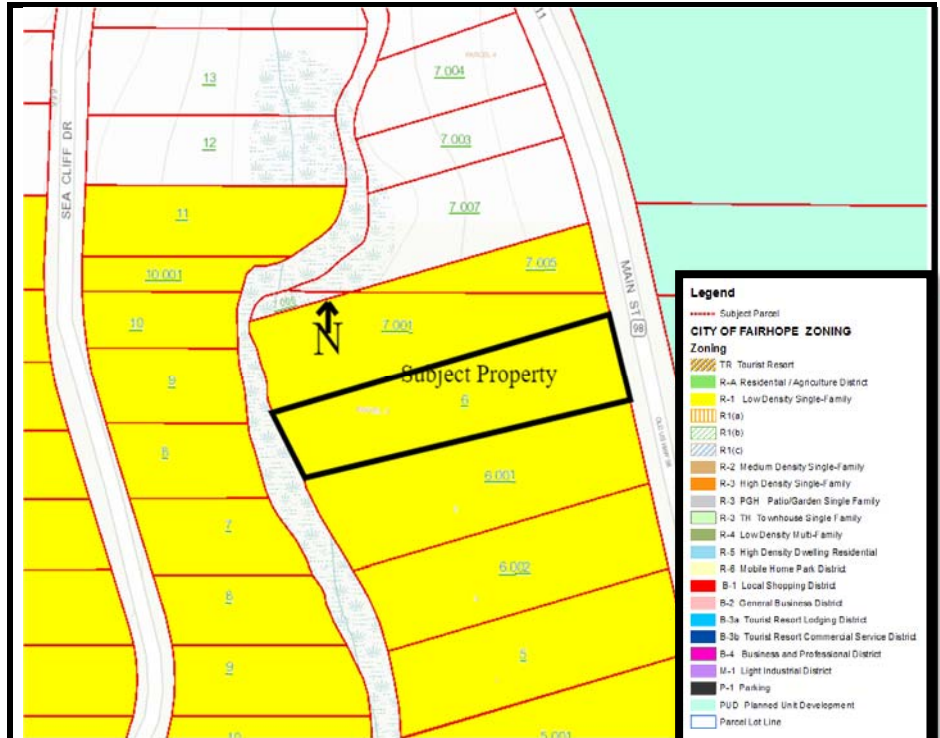
98872

Report prepared by:

Mike Jeffries
 Planning Technician, QCI

Recommendation:

Approval



Summary of Request:

The applicant requests a variance from the 10’ required separation distance between an accessory structure and the principle structure per Fairhope’s Zoning Ordinance Table 3-3 to a 1’ separation.

Table 3-3: Dimension Table - Residential Accessory Structures

Dimension District or use	Setbacks				Max. total lot coverage by accessory structure	Max. height	Min. structure separation from principle structure
	Front	Rear	Side	Street side			
R/A	Behind front building line of principle structure	15’	15’	50’	30% of required rear yard	30’	50’ for agriculture structures; 10 feet for all other accessory structures
R-3 PGH*	Behind rear building line of principle structure	none required	same as principle structure	same as principle structure	25% of required rear yard*	20’ but no taller than the principle structure	5’
All other residential districts	Behind rear building line of principle structure	5’	5’	no nearer than principle structure	25% of required rear yard	30’ but no taller than the principle structure	10’

Currently there is a retaining wall that had to be built in the rear yard because of the topography of the lot. The engineering of the retaining wall has tie backs used to anchor the wall that extend 10’ east back towards the house creating an area that cannot be disturb or built on.

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 has a topography that slopes towards Fly Creek. The principle structure is located on the front part of the lot. The remaining part of the property behind the rear building line of the principle structure has worsening slope. Because of the worsening topography a retaining wall was required to stabilize the lot and allow for construction.

(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.

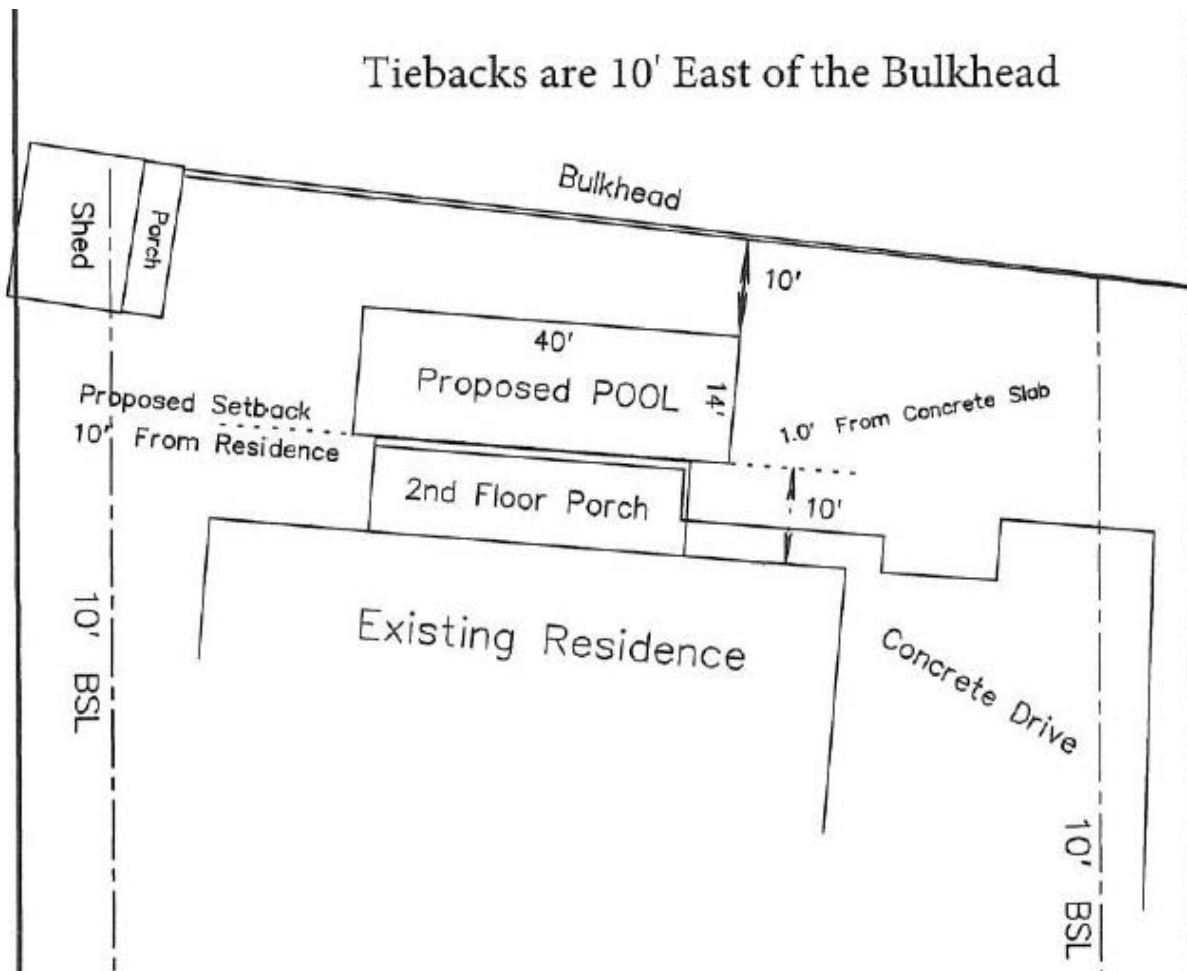
Response: Applying the required 10' separation from the principle structure in combination with the retaining wall would only allow for at most a 6' wide pool which is too narrow.

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

Response: The site is unique to itself as it is on a steep slope and a large portion of the property would require extensive engineering to be built upon. A retaining wall creates the rear border of usable rear yard.

(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: Relief, if granted, would not cause any detriment to the public nor impair the intent of this ordinance.



Comments:

The 10' separation must be measured from the principle structure. The bottom floor under the covered porch is not conditioned space it is a concrete slab used as a patio. Above the slab is a covered porch as seen on the survey. Not counting the porch as the principle structure and applying the 10' setback would allow for a pool with a maximum width of 14' with a 1' separation from the existing concrete slab.

View of retaining wall and usable back yard.



View of patio/covered porch



View of northwest corner of house.



View of southwest corner of house.



Staffs only concern is a safety issue with the possibility of being able to jump from the second-floor porch into the pool. The City of Fairhope's Building Official may require a hold harmless agreement. Also, applicant at time of building permit shall provide engineered drawings. Applicant is advised to consult with the Building Department to ensure any structural concerns are addressed with desired pool design.

Staff Recommendation:

Staff Recommends approval of the separation setback from 10' to 1'.

Prepared by:
Mike Jeffries
Planning Technician, QCI



Board of Adjustment

July 15, 2019

Case: BOA 19.11 314 S. Greeno Rd.

Special Exception

Project Name:

314 S. Greeno Rd.

Property Owner / Applicant:

Bob Taupeka/Jordan Lawhorn

General Location:

West side of S. Greeno Rd.
Approximately 300' north of
Intersection of Greeno Rd. and
Nichols Ave.

Request:

Special exception for limited
manufacturing use in B-2

Project Acreage:

Approximately .3 acres

Zoning District:

B-2 General Business District

PPIN Number:

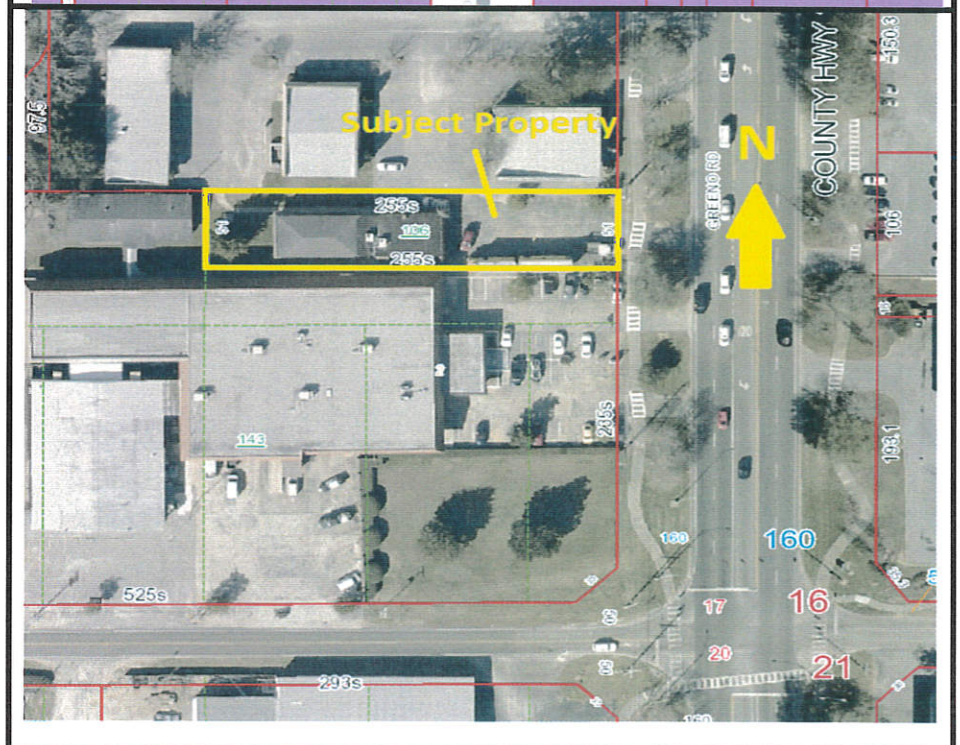
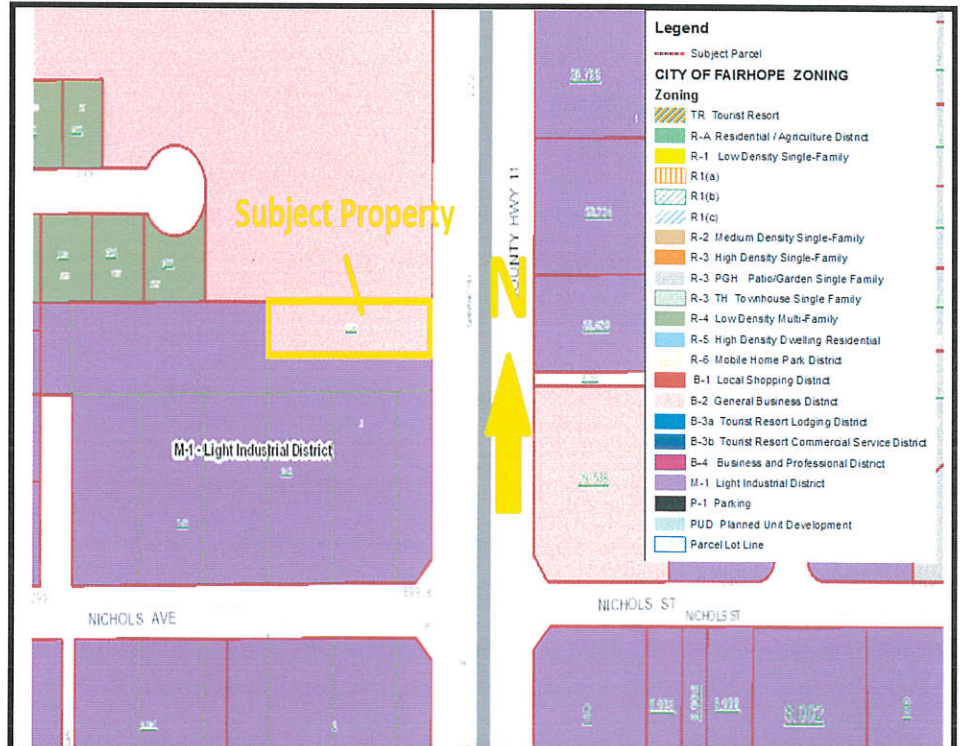
21659

Recommendation:

Approval

Report prepared by:

Mike Jeffries
Planning Technician, QCI



Summary of Request:

Refuge Coffee, is requesting a limited manufacturing use which is not allowed by right but by special exception in Fairhope's Zoning Ordinance for the property located at 314 S. Greeno Rd. The subject property is zoned B-2 General Business District. The subject property is also located in the Medical Overlay District which requires approval of the special exception. The applicant desires to have an industrial coffee roaster to allow them to roast and package coffee for retail and wholesale at the subject property.

Comments:

Below is an excerpt from Fairhope's Zoning Ordinance Article IX Section B.6 defining the "Limited" manufacturing use.

Manufacturing Use Category

The Manufacturing Use Category is for businesses engaged in economic activity involving construction, production, processing, transformation, warehousing, wholesale, and disposal of goods, products, and component parts of goods and products, including related services. These uses typically belong in a special district do to their inability to blend with the uses from other use categories.

a. *Limited* – any small scale manufacturing use that has a retail or service component and which presents no outward, visible, or perceptible presence of manufacturing activity.

This use is allowed by right in the M-1 district which borders the subject property on three sides.

The review criteria for a use appeal is as follows:

Article II. Section C.e(2)

Any other application to the Board shall be reviewed under the following criteria and relief granted only upon the concurring vote of four Board members:

(a) Compliance with the Comprehensive Plan;

Response: The Comprehensive Plan refers to Thomas Hospital and gives guidance to support the hospital. Staff feels that a coffee shop in the medical overlay district would support both staff from the hospital and visitors.

(b) Compliance with any other approved planning document;

Response: None noted.

(c) Compliance with the standards, goals, and intent of this ordinance;

Response: The subject property is in the Medical Overlay District and is a supporting use to the hospital and is therefore in keeping with the intent of the ordinance.

(d) The character of the surrounding property, including any pending development activity;

Response: The subject property is bordered to the north by Thomas Hospital and M-1 zoned property to the south. Adjacent properties are in the Medical Overlay District.

(e) Adequacy of public infrastructure to support the proposed development;

Response: No issues noted. Any impacts would be minor in nature.

(f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;

Response: The subject property is developed, and no negative impacts are anticipated.

(g) Compliance with other laws and regulations of the City;

Response: No issues noted.

(h) Compliance with other applicable laws and regulations of other jurisdictions;

Response: No issues noted.

(i) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;

Response: No issues noted.

(j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

Response: No issues noted.

(k) Overall benefit to the community;

Response: The use proposed is in walking distance to the hospital and would provide a service to both staff and visitors to the hospital.

(l) Compliance with sound planning principles;

Response: Staff believes this use is in keeping with sound planning principles.

(m) Compliance with the terms and conditions of any zoning approval; and

Response: No issues noted.

(n) Any other matter relating to the health, safety, and welfare of the community.

Response: No issues noted.

Additional Comments

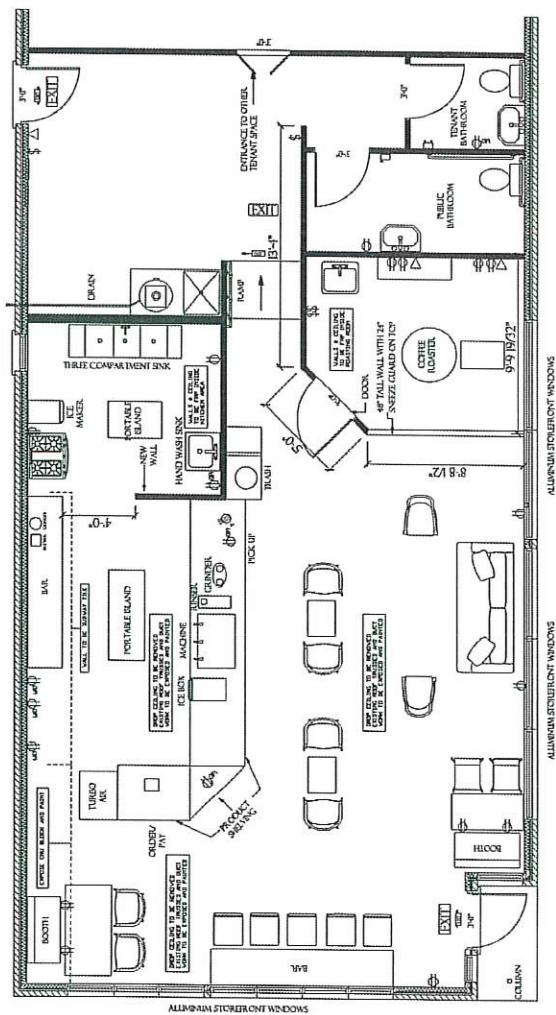
The industrial coffee grinder must conform to the limited manufacturing confines which “presents no outward, visible, or perceptible presence of manufacturing activity.” The provided proposed floor plan shows the grinder in a separate room with nothing protruding out of the building.

Staff Recommendation: Staff recommends **APPROVAL** of the appeal for a limited manufacturing use at 314 S. Greeno Rd.

- NOTES:
1. ALL CONSTRUCTION SHALL BE IN STRICT COMPLIANCE WITH THE INTERNATIONAL BUILDING CODE - 2018 EDITION, LOCAL CODES AND ORDINANCES.
 2. ALL PLUMBING WORK SHALL BE IN ACCORDANCE WITH THE INTERNATIONAL PLUMBING CODE 2018.
 3. ALL MECHANICAL WORK SHALL BE IN ACCORDANCE WITH THE INTERNATIONAL MECHANICAL CODE 2018.
 4. ALL ELECTRICAL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRIC CODE 2011 & 2009 ENERGY CODE.
 5. CITY OF FRAZEE FIRE INSPECTOR AND HEALTH DEPARTMENT REQUIREMENTS SHALL BE MET AND THE PROPOSED FLOOR PLAN.
 6. ALL TIME BE REQUIRED FOR ANY WORK TO BE COMPLETED IN THIS BUILDING HAVE BEEN ALTERED OR REQUIRE ALTERING.

SCOPE OF WORK:

REMOVAL OF EXISTING FLOORING IN DINING AREA.
 NEW FLOORING TO BE STAINED AND SEALED CONCRETE.
 REMOVAL OF EXISTING FLOORING IN ROASTER AREA.
 NEW FLOORING TO BE TILE. WALLS AND CEILING TO HAVE FRP PANELS ON INSIDE ROASTING AREA.
 EXISTING RESTROOMS TO REMAIN.
 EXISTING EMERGENCY LIGHTING TO REMAIN.
 ALL EXTERIOR DOORS AND STOREFRONT GLASS TO REMAIN.
 MINOR PLUMBING CHANGES BUT EXISTING DRAINS WILL BE UTILIZED.
 ADDITION OF SEVERAL OUTLETS IN KITCHEN AND ROASTING AREA.
 INSTALLATION OF 48" TALL KNEE WALL WITH 24" SHEETZ GUARD ON TOP ON EAST SIDE OF ROASTING ROOM.
 DOOR TO ROASTING ROOM TO BE A MINIMUM OF 72" TALL.
 DOOR INTO ROASTER CAN BE A LOUVERED TYPE DOOR SYSTEM.
 A/C SYSTEM TO REMAIN WITH RELOCATION OF DUCT WORK TO FIT NEW FLOOR PLAN.



PROPOSED FLOOR PLAN



<p>DO NOT SCALE DRAWINGS</p> <p>THIS DRAWING REPRESENTS DECISIONS PREPARED BY MATTHEW W. INGRAM, P.E., LLC. COPIES REPRODUCED OR ALTERED WITHOUT THE EXPRESS WRITTEN PERMISSION OF MATTHEW W. INGRAM, P.E., LLC. THIS DRAWING IS UNAUTHORIZED TO BE USED FOR ANY OTHER PROJECT OR IN ANY STATE AND FEDERAL LAW.</p> <p>THIS FLOOR PLAN IS FOR INFORMATION ONLY. THE WRITTEN PERMISSION OF THE ENGINEER OF RECORD, IF FULFILLED, DOES NOT MEET THE REQUIRED DESIGN APPROPRIATE CHANGES CAN BE MADE.</p>		<p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p>		<p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p>		<p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p>		<p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p> <p>DATE: _____</p>	
<p>REVISION NO. 1</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 1</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 1</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 1</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 1</p> <p>DESCRIPTION:</p>	
<p>REVISION NO. 2</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 2</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 2</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 2</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 2</p> <p>DESCRIPTION:</p>	
<p>REVISION NO. 3</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 3</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 3</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 3</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 3</p> <p>DESCRIPTION:</p>	
<p>REVISION NO. 4</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 4</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 4</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 4</p> <p>DESCRIPTION:</p>		<p>REVISION NO. 4</p> <p>DESCRIPTION:</p>	
<p>MATTHEW W. INGRAM, P.E., LLC</p> <p>11941 JERICHO DRIVE DAPHNE, AL 36526</p> <p>TELEPHONE: 251-370-0332 EMAIL: matthew@ingramllc.com</p>					<p>SCALE: 3/16" = 1'-0"</p> <p>DRAWN BY: MWT CHECKED BY: MWT APPROVED BY: MWT DATE: 05-21-19 REV. NO. 1 DRAWING NO.: FP-1.0</p>				
<p>REFUGE COFFEE</p>					<p>FLOOR PLAN</p>				

JUN 10 2019

BY: *EW*



Board of Adjustment

July 15, 2019

Case: BOA 19.12 621 Nichols Ave.

Special Exception

Project Name:

621 Nichols Ave

Property Owner / Applicant:

FSTC/City of Fairhope

General Location:

Northwest corner of Young St.
Nichols Ave.

Request:

Special exception for Public
Utility use in B-2

Project Acreage:

Approximately .9 acres

Zoning District:

R-6

PPIN Number:

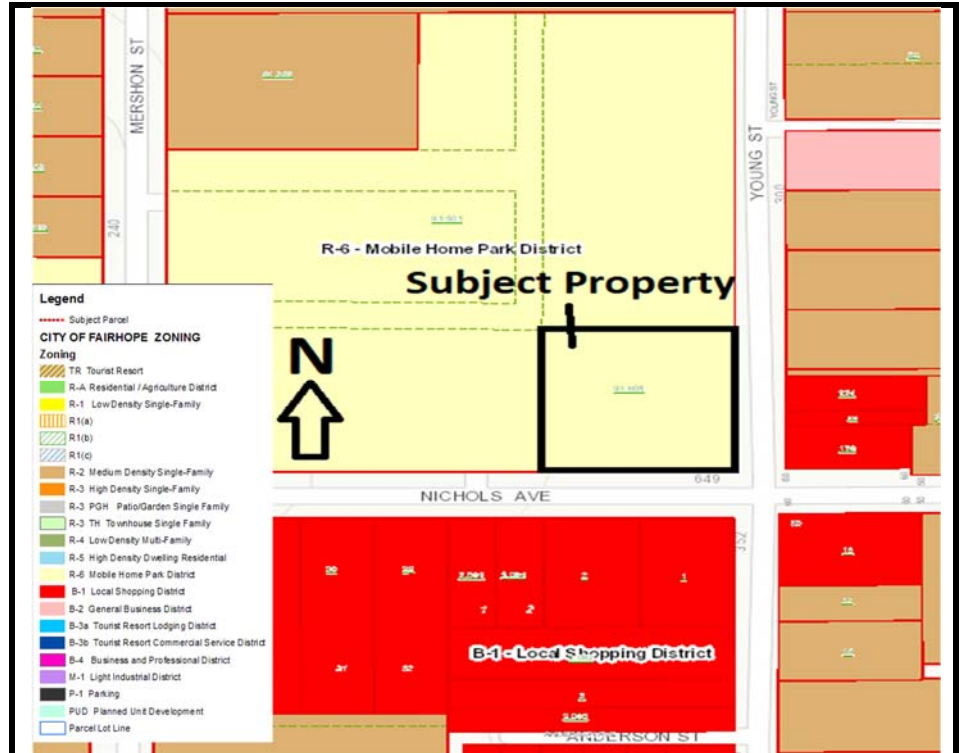
61420

Recommendation:

Approval

Report prepared by:

Mike Jeffries
Planning Technician, QCI



Summary of Request:

Fairhope Utilities, is requesting a public utility use which is not allowed by right but by special exception in Fairhope's Zoning Ordinance for the property located at 621 Nichols Ave. The subject property is zoned R-6 Mobile Home Park District. The applicant desires to install a new electrical substation that will allow for Fairhope Utilities to better serve its customers.

Comments:

Stewart Engineering the Engineer of Record(EOR) provided a comprehensive engineering report that focused on the age, capacity, and future growth projections for each of the current six substations. The report suggested the elimination the Church St. substation and build a new double substation on Young St. where an existing feeder can be utilized to save costs and offer a more reliable service to the customers.

Three sites were considered and based on topography and the character of the surrounding neighborhood the northwest corner of Young St and Nichols Ave. was chosen. A current substation is on the northeast corner of the same intersection and it will be removed as well. The new substation will be eliminating the substation on Church St. and replacing the one on Young St.

The review criteria for a use appeal is as follows:

Article II. Section C.e(2)

Any other application to the Board shall be reviewed under the following criteria and relief granted only upon the concurring vote of four Board members:

(a) Compliance with the Comprehensive Plan;

Response: The Comprehensive Plan refers to infrastructure and states the City needs to plan, provide, and maintain cost-effective and efficient infrastructure that promotes orderly growth and meets environmental goals.

(b) Compliance with any other approved planning document;

Response: None noted.

(c) Compliance with the standards, goals, and intent of this ordinance;

Response: Complies

(d) The character of the surrounding property, including any pending development activity;

Response: The subject property is bordered to the north and west by R-6 zoning and the south and east by B-1 Local Shopping District. Also R-2 to the east.

(e) Adequacy of public infrastructure to support the proposed development;

Response: No issues noted. Any impacts would be minor in nature.

(f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;

Response: The subject property is mostly cleared in the center of the lot and the perimeter has wooded vegetation that will act as buffer.

(g) Compliance with other laws and regulations of the City;

Response: No issues noted.

(h) Compliance with other applicable laws and regulations of other jurisdictions;

Response: No issues noted.

(i) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;

Response: No issues noted. There exists a buffer of wooded vegetation around the perimeter.

(j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

Response: No issues noted.

(k) Overall benefit to the community;

Response: The use proposed will enhance an aged outdated system providing better service to Fairhope Utility customers.

(l) Compliance with sound planning principles;

Response: Staff believes this use is in keeping with sound planning principles.

(m) Compliance with the terms and conditions of any zoning approval; and

Response: No issues noted.

(n) Any other matter relating to the health, safety, and welfare of the community.

Response: No issues noted.

Staff Recommendation: Staff recommends **APPROVAL** of the appeal for a public utility use at 621 Nichols Ave.