

The City of Fairhope Board of Adjustments and Appeals met on Monday, November 16, 2009 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.

Members Present: Vice Chair Cathy Slagle; Suzanne Winston; Stan Grubin; Anil Vira; Jonathan Smith, Director of Planning & Building; and Emily Boyett, Secretary. Absent: Chairman Bob Mannich

The meeting was called to order at 5:00 PM by Vice Chairperson Slagle.

Members were asked to review the July 20, 2009 minutes for consideration and make a motion to approve. Due to the lack of a quorum the minutes will be held-over until the next meeting.

ZBA 09.05 Request of Rick Gambino for a Special Use Permit for a Coffee House (Restaurant) use in the B-3A zoning district. The property is located on the east side of South Mobile Street, just north of Fels Avenue at 151 South Mobile Street.

Anil Vira stated that he has a conflict with this case because he had managed this piece of property for Mr. Gambino within the last month and he excused himself from the case. Due to the lack of a quorum the Board tabled until the next meeting. Mr. Gambino requested the Board have a Special Meeting to hear his case. Mr. Smith stated that advertisement deadlines would have to be met and staff will let the Board and Mr. Gambino know when the meeting will be set.

ZBA 09.06 Request of Edward Rogers for an approximate 3'6" height variance for an accessory structure. The property is located on the northeast corner of the intersection of Nichols Avenue and Freedom Street, at 51 Nichols Avenue.

Jonathan Smith, Planning and Building Director, came forward and gave the Staff Interpretation.

STAFF INTERPRETATION: The subject property is zoned R-2 (Medium Density Single Family Residential). Mr. Edward Rogers is seeking a variance to the provisions of Table 3-3: Dimension Table – Residential Accessory Structures in the Fairhope Zoning Ordinance.

Table 3-3 requires that all accessory structures in the R-2 zoning district adhere to a maximum building height of 30' but no taller than the principle structure. The applicant would like to construct a 23' – 10" tall accessory structure in the rear yard of the subject property; the existing principle structure on the lot has a building height of 20' – 4". According to the applicant, the need for the variance is for adequate headroom above the proposed carport (accessory structure).

The applicant has identified a large oak tree as a hardship on the subject property. He states in his “letter for variance application” that if he is unable to build the proposed accessory structure, he could possibly add on to the rear of the home on the Freedom Street side, which will result in having to cut an existing “very old large live oak”. It appears the applicant could add on to the rear of his house on the Freedom Street side; the addition could be built up to a maximum building height of 30’.

Staff feels that the preservation of the existing large live oak on the property is very important, therefore the 3’ – 6” building height variance is seen to be a minimal adjustment that can be made to save the large tree.

The property is bordered on the north, west and east sides by R-2 zoned property. To the south lies B-3B (Tourist Resort Commercial Service District) property.

Facts to be considered in this case:

1. The applicant is requesting a 3’ – 6” building height variance.
2. If the applicant were to add on to the existing principle structure, he could build up to a 30’ maximum building height.
3. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography, due to the existing “very old large live oak”.

STAFF RECOMMENDATION: Due to the possibility of losing a large oak tree on the subject property, staff recommends the Board of Adjustment approve the proposed 3’-6” height variance for the proposed accessory structure located at 51 Nichols Avenue.

Mrs. Slagle opened the public meeting. Ed Rogers, the applicant, addressed the Board saying the house was built in the 1930s and it has very limited storage. Wendall Hudson, 100 Nichols Avenue, stated he has no objections to allowing this variance. Gabe Chamblin, 57 White Avenue, stated he has no objection with the request. Having no further comments, Mrs. Slagle closed the public hearing. Mrs. Slagle noted there are two accessory structures on the property and Mr. Rogers stated that one will be removed. Stan Grubin moved to accept the staff recommendation to approve as requested. Suzanne Winston 2nd the motion and the motion carried unanimously.

ZBA 09.07 Request of Sybil Stoudenmire for an approximate 11’ setback variance for an accessory structure. The property is located at 626 Dogwood Avenue.

Jonathan Smith, Planning and Building Director, came forward and gave the Staff Report.

STAFF INTERPRETATION: The subject property is zoned R-2 (Medium Density Single Family Residential). Ms. Stoudenmire is seeking a variance to the provisions of Table 3-3: Dimension Table – Residential Accessory Structures in the Fairhope Zoning Ordinance.

Table 3-3 requires that all accessory structures in the R-2 zoning district adhere to a minimum street side building setback “no nearer than the principle structure”. The street side setback for a principle structure in the R-2 district is 20’.

Per the attached site plan, the applicant is proposing the principle structure on the lot be setback from the street by approximately 31’, which is well within the setback constraints of the Ordinance. The detached garage (accessory structure) is proposed to be setback from the street at approximately 20’.

The applicant has identified four (4) oak trees to be preserved as a result of increasing the Principle Structure Setback to 31’, rather than building to the allowed 20’ street side setback.

Staff feels that the preservation of the existing oak trees on the property is very important, therefore the approximate 11’ accessory structure street side yard variance is seen to be a minimal adjustment that can be made to save the existing oak trees.

The property is surrounded and bordered on all sides by R-2 zoned property.

Facts to be considered in this case:

1. The applicant is requesting an 11’ Street Side Setback Variance for a proposed accessory structure.
2. If the applicant were to building the principle structure to the minimum 20’ setback as established by the Zoning Ordinance, this request would not be necessary and the oak trees shown within the possible building footprint area will not be preserved.
3. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography, due to the existing oak trees (topography) on the property.

STAFF RECOMMENDATION: Staff feels that this application meets the minimum criteria established by the Zoning Ordinance for a variance; therefore, staff recommends the Board of Adjustment approve the proposed 11’ accessory structure street side setback variance for the proposed accessory structure located at 626 Dogwood Avenue.

Mrs. Slagle opened the public hearing. Ms. Stoudenmire, the applicant, addressed the Board saying she wants to build a house that fits in with Fairhope. She plans to build a Creole Cottage, use native plants and use as little concrete as possible. Ms. Stoudenmire

stated she wants to keep as many trees as she can and moving the garage will minimize her driveway. She added that the landscaping will hide much of the garage. Kent Broom, the applicant's architect, explained he designed this for function and aesthetics. He said the variance will save multiple live oaks and help to create an atmosphere. Having no further comments, Mrs. Slagle closed the public hearing. Suzanne Winston asked if the applicant had already started construction on the house and this was an afterthought. Ms. Stoudenmire responded no, she has been planning this house for over a year and if her request is denied then she will build a pergola. Mrs. Slagle stated this is a beautiful piece of property and she feels it will blend nicely with Fairhope. Anil Vira moved to accept the staff recommendation to approve as requested. Stan Grubin 2nd the motion and the motion carried unanimously.

Having no further business, Suzanne Winston made a motion to adjourn. Stan Grubin 2nd the motion. Motion carried unanimously. The meeting was adjourned at 5:25 pm.