



**City of Fairhope
Board of Adjustment and Appeals
5:00 PM
City Council Chambers
September 20, 2021**

Sherry Sullivan
Mayor

Council Members

Kevin G. Boone

Robert A. Brown

Jack Burrell, ACOMO

Jimmy Conyers

Corey Martin

Lisa A. Hanks, MMC

City Clerk

Kimberly Creech

City Treasurer

1. Call to Order
2. Approval of Minutes
 - August 16, 2021
3. Consideration of Agenda Items:
 - A. BOA 21.09 Public hearing to consider the request of Richard and Julie Clay for a Side Setback Variance to allow for a swimming pool for property located at 306 N. Bayview Street.
PPIN #: 14512
4. Old/New Business
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

The Board of Adjustments met Monday, August 16, 2021, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle; Donna Cook; Michael Baugh; Frank Lamia; Hunter Simmons, Planning and Zoning Manager; Samara Walley, City Planner; and Allie Knutson, Secretary.

Absent: David Martin, Alternate I; Ryan Baker, Alternate II.

Chairman Vira called the meeting to order at 5:01 PM.

Minutes

- **July 19, 2021**

Motion:

Cathy Slagle made a motion to approve the minutes with no changes.

Donna Cook seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Michael Baugh.

Nay: None.

BOA 21.08 – Public hearing to consider the request of Walcott Adams Verneuille Architects, Inc. for a Special exception to allow Restaurant Use for property located at 805 S. Mobile Street. PPIN # 61363

Samara Walley, City Planner, presented the case summary:

The property is zoned B-1, Local Shopping District. According to the Zoning Ordinance, “Restaurants in the B-1 zoning district may be permitted only on appeal to the Board of Adjustments and may be subject to special conditions”. A new approval may be required if the ownership and/or scope of operations change.

Special Exception requests are for the use, the proposed site plan is subject to change. However, the previous use was a restaurant at this location and the proposed restaurant will be similar in style. The applicant intends to keep the existing building footprint but intends to renovate the interior and exterior of the existing building.

Staff recommends approval of BOA 21.08 subject to the following conditions:

- 1. Submission of a revised site plan illustrating compliant parking and tree protection prior to the issuance of a business license.**

Hunter Simmons, Planning and Zoning Manager, stated that the Planning Department received one letter, one phone call, and one email with citizen concerns being rodents and noise/live music. The Board could make restriction of loud music a condition of approval. He also mentioned preserving the live oaks around the property that provide a buffer between the restaurant and the neighbors. Lights in the parking lot should be shielded from adjacent neighbors.

Frank Lamia confirmed that a drive-thru would not be allowed in the B-1 Zoning District and that the applicant would need to come back to the Board if he decided to expand the restaurant past the existing building footprint.

Cathy Slagle brought up the citizen comments about noise concerns. Hunter Simmons, Planning and Zoning Manager, stated that the City of Fairhope has a Noise Ordinance of 10:00 PM. After that, the police would have to get involved if there was a noise complaint. The Noise Ordinance is complaint driven and the police would have to get a decibel meter. An agreement with the applicant regarding live music and noise may help alleviate some concerns.

Tyler Hood, Applicant, stated that they are not planning to have live music, but that he wants to be a good neighbor and would agree to adding a condition to cease live music by a certain time, if needed.

Chairman Vira asked what times they will be open, Tyler Hood responded that they will most likely be open for lunch and dinner and will stay open till around 10:00 PM. The food will be Louisiana Cajun cuisine.

Donna Cook asked what type of lighting will be in the parking lot. Tyler Hood, Applicant, was not sure, they are still working on lighting as they want the parking lot to be lit enough so that customers do not trip, but he also does not want light pollution for the neighbors. Hunter Simmons, Planning and Zoning Manager, added that the applicant has an engineer and there are shields that can be put on parking lot lights as well as a height limit for light poles.

Chairman Vira opened the public hearing.

Amanda Green Mitchell, 32 Bay Point Court: Ms. Mitchell stated that her backyard faces the restaurant and that she never had a problem with any of the previous restaurant owners, they were very respectful about noise. She did have concerns with parking lot lights as well as rodents. She had dealt with rodent issues in the past, but overall, the people in her neighborhood are excited about a new restaurant coming in.

William Bruce, 163 Cypress Lane: Mr. Bruce spoke in favor of the applicant, he has known the applicant, Mr. Hood, for several years now. He stated that he has dined at his other establishments in South Louisiana and that they have good food with excellent service.

Chairman Vira closed the public hearing.

The Board had no further questions for staff or the applicant.

Motion:

Michael Baugh made a motion to approve BOA 21.08, subject to the following conditions:

- 1. Submission of a revised site plan illustrating compliant parking and tree protection prior to the issuance of a business license.**
- 2. Live music ceases at 9:00 PM.**

Cathy Slagle was concerned with over-limiting the applicant with the current Noise Ordinance already in place and wanted to know if the condition of approval is necessary.

Hunter Simmons, Planning and Zoning Manager stated that the enforcement with the Noise Ordinance is warnings leading up to fines and court. The condition of approval has more teeth because the use that was approved, would be on the line.

Donna Cook stated that she thought adding that condition would make things complicated when there is already a Noise Ordinance in place.

Mr. Baugh's motion was not seconded, the motion failed.

Motion:

Cathy Slagle made a motion to approve BOA 21.08, subject to the following conditions:

- 1. Submission of a revised site plan illustrating compliant parking and tree protection prior to the issuance of a business license.**

Donna Cook seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, and Frank Lamia.

Nay: Michael Baugh

Old/New Business

Hunter Simmons, Planning and Zoning Manager, stated that there is one case for next month's agenda.

Adjournment

Cathy Slagle made a motion to adjourn, and the motion carried unanimously.

Adjourned at 5:30 PM.

Anil Vira, Chairman

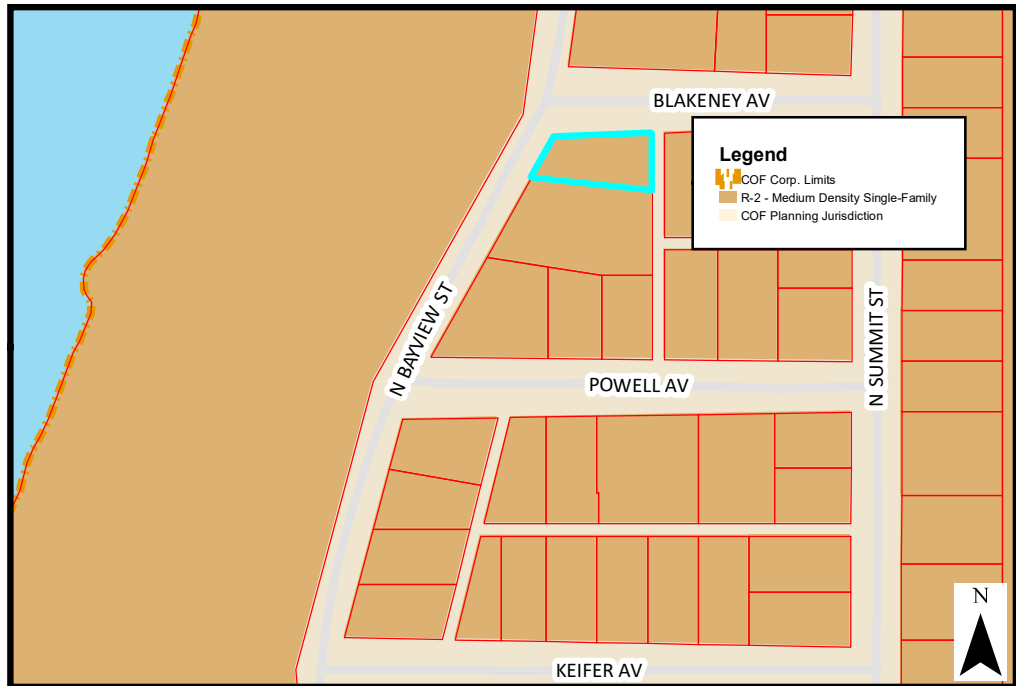
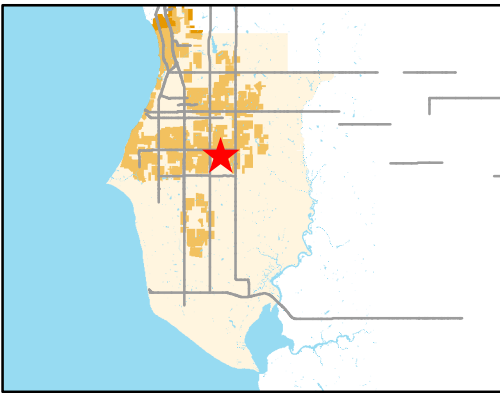
Allie Knutson, Secretary

City of Fairhope Board of Adjustment

September 20, 2021



BOA 21.09 - 306 N. Bayview St



Project Name:
306 N. Bayview St.
Application Type:
Variance
Variance Type:
Side Setback Variance
Jurisdiction:
City of Fairhope
Zoning District:
R-2, Medium Density Single Family Res.
PPIN Number:
14512
General Location:
Surveyor of Record:
Engineer of Record:
Owner / Applicant:
Richard & Julie Clay
Recommendation:
Denial
Prepared by:
Samara Walley





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: Administrative Appeal Special Exception Variance

Property Owner / Leaseholder Information

Name: Richard L. Clay / Julie Clay Phone Number: 256-508-8155
 Street Address: 301 Holmes Ave Ste 301
 City: Huntsville State: AL Zip: 35801

Applicant / Agent Information
If different from above, Notarized letter from property owner is required if an agent is used for representation.

Name: Robert Brown Phone Number: 251-464-7509
 Street Address: 15401 Scenic 98
 City: Fairhope State: AL Zip: 36532

- 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.

Richard L. Clay
 Property Owner/Leaseholder Printed Name
8/8/2014
 Date

[Signature]
 Signature
 Fairhope Single Tax Corp. (if Applicable)



VARIANCE REQUEST INFORMATION

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

- Too Narrow
- Too Small
- Too Shallow
- Elevation
- Slope
- Shape
- Soil
- Subsurface
- Other (specify)

Describe the indicated conditions: SEE ATTACHMENT ITEM 1

How do the above indicated characteristics preclude reasonable use of your land?

SEE ATTACHMENT ITEM 2

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

SEE ATTACHMENT ITEM 3

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."

SEE ATTACHMENT ITEM 4

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

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.

Michael C. Clay
Property Owner/Leaseholder Printed Name

[Signature]
Signature

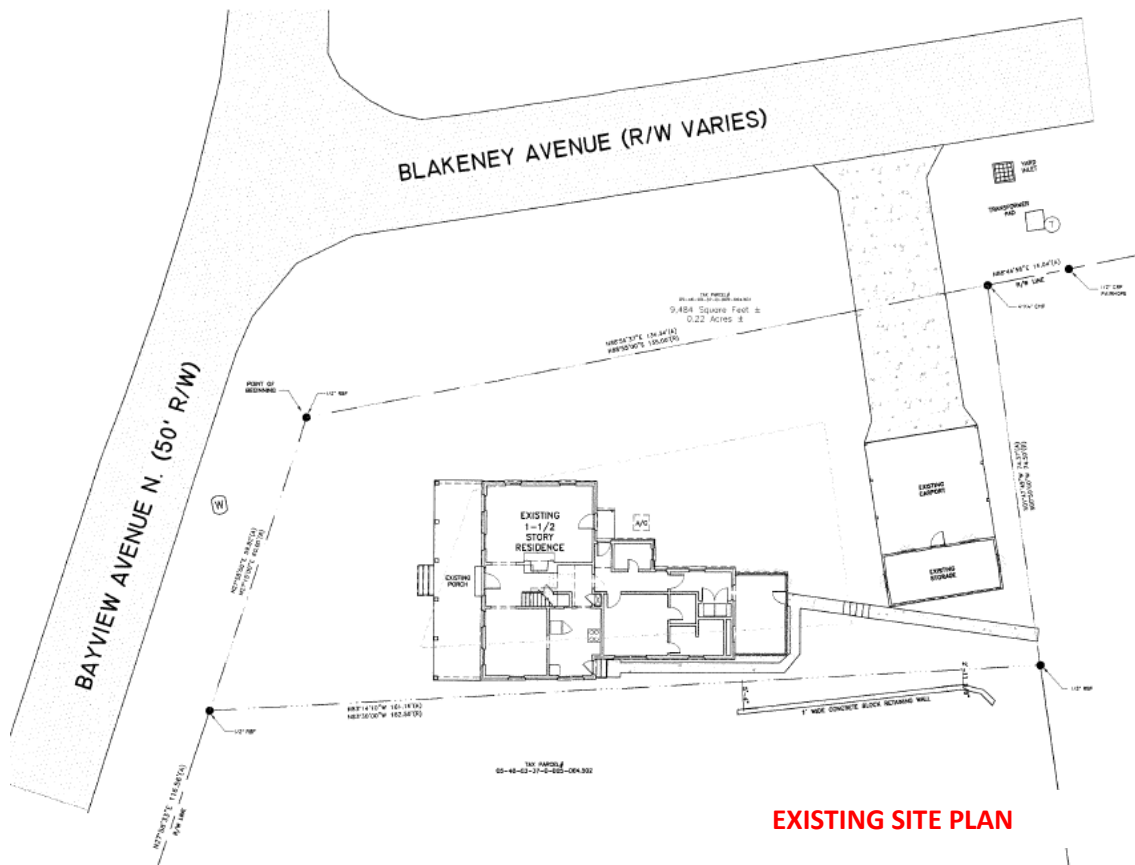
August 9, 2021
Date

Fairhope Single Tax Corp. (if Applicable)

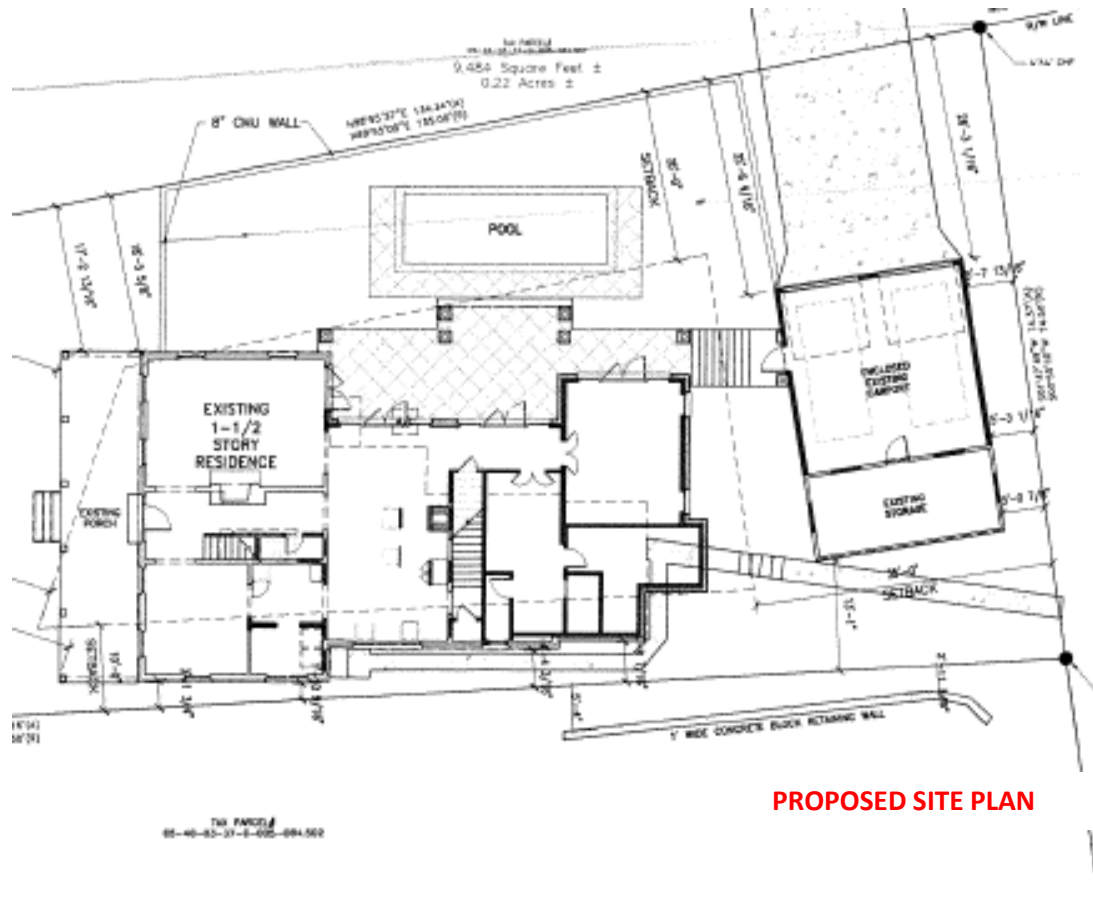
The applicant, Robert Brown, is requesting a side setback variance to allow a swimming pool for the property located at 306 N. Bayview Street. The property is zoned R-2 Medium Density Family Residential District.

The applicants have provided drawings that illustrate existing and proposed conditions on the subject site. Currently, there is a single-family 1-1/2 story residence, a carport and storage. The applicant is requesting to situate a swimming pool 6'-6" from the property line on the north side of the property. The applicant has provided a narrative in which they note three hardships:

1. "According to the CITY OF FAIRHOPE'S ZONING ORDINANCE, Article III, Section C. Dimension Standards the Minimum Lot Area for an R-2 Lot is 10,500 square feet. The Lot consists of 9,483.65 square feet which is 89.7% smaller than the Minimum Lot Area required. If my Lot were 10.3% larger and met the 10,500 square feet minimum for an R-2 Lot, I would have no difficulty fitting an 8'-0" wide swimming pool in my side yard without encroaching on the side yard setback."
2. "...Section C. Dimension Standards also states a Minimum Lot Width for an R-2 Lot of 75'. The Lot is 60' wide where it fronts Bayview Avenue and 74.5' along its rear property line..."
3. "Third is the extreme uphill slop of the Lot. The property is relatively level from the west front of the house to the east rear of the house. Then the property slopes steeply uphill approximately with the final 35' being approximately 8'-0" above the grade of the remainder of the property."

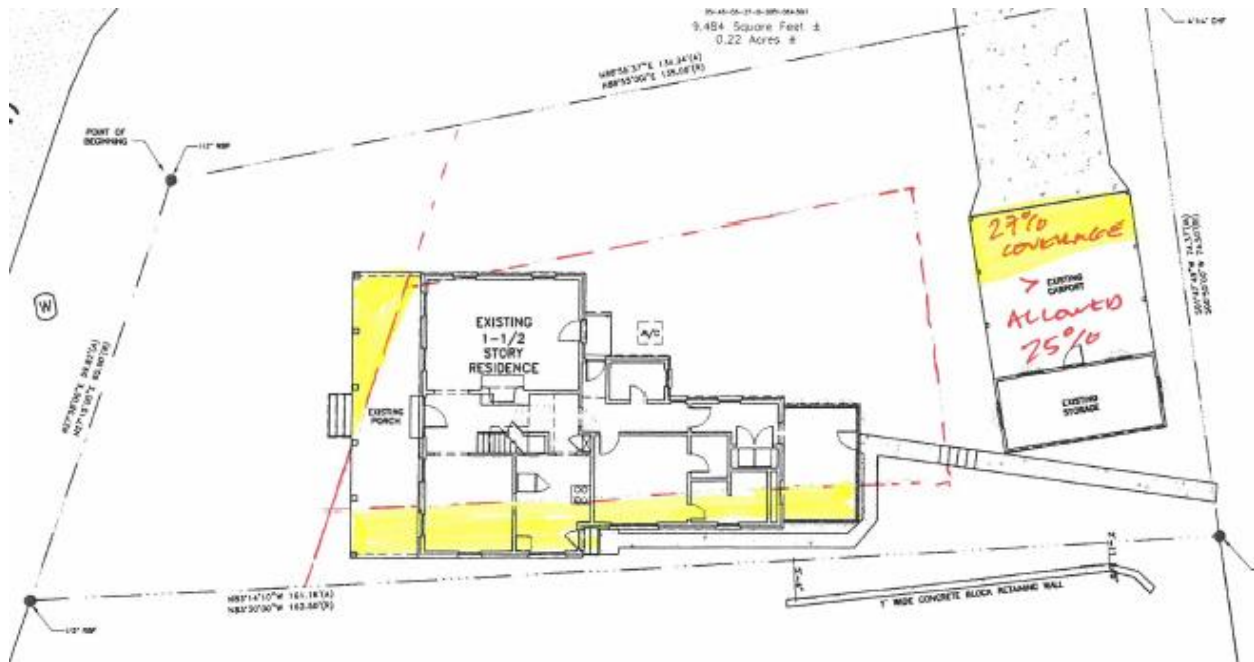


The site plan below indicates the proposed additions of the pool, wall along Blakeney Avenue and additional renovations.

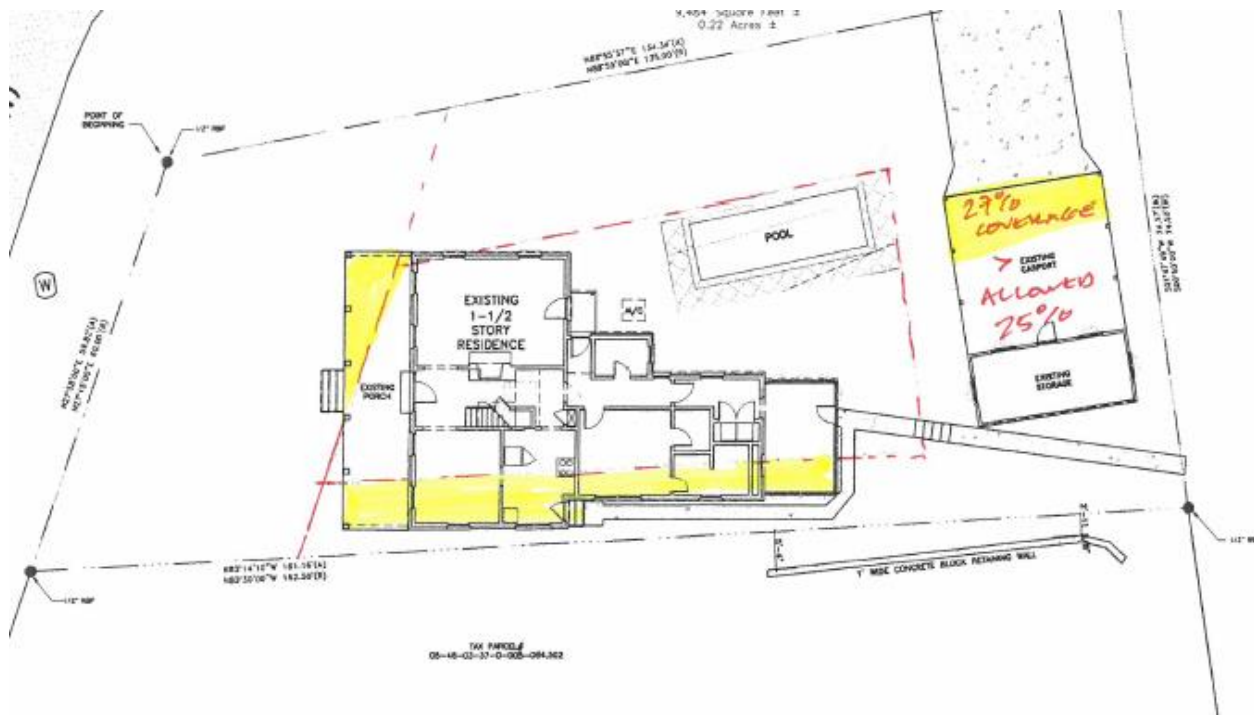


The Zoning Ordinance requires that accessory structures, such as pools, to be situated no nearer than the principle structure along side streets and behind the rear building line of the principle structure. The proposed pool is located on a street side and would therefore be required to align with the existing residence. Additionally, the pool must be located behind the dwelling. As shown, the proposed pool does not meet the accessory structure standards. The placement of a fence/wall, as shown, appears to be in compliance with our regulations. The proposed height of the fence has not been provided. Details would be provided at the time of building permit.

The applicant has indicated that the slope of the lot would prohibit the placement of the pool in the rear. However, the proposed plan illustrates additions to the existing dwelling located in the rear of the house. The Site Plan below indicates the existing conditions on site. The yellow areas indicate existing encroachment in the building setbacks. Additionally, the existing carport exceeds the allowed 25% in the rear yard.



Staff finds that it could be possible to place the pool within the required setback. Staff also notes that the intent of the street side setback on corner lots is to preserve the street view for the properties along Blakeney Avenue. Below is potential alternative for the placement of the pool on the subject site that lies within existing setbacks.



2. Residential Accessory Structures

Table 3-3 indicates dimension requirements for residential accessory structures.

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	Min. separation between structures
	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	5'
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'	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'	5'

*one detached garage up to 600 square feet shall be allowed for Patio/garden homes in addition to the maximum total lot coverage for other accessory structures, subject to all other accessory structure dimension standards.

Staff also finds that there are large street trees that may be disturbed as a result of an addition of a pool and fence/wall. If the variance is approved, a Right-of-Way permit may be required and review by the City's Horticulturalist prior to the issuance of any building permit.



A small wooden bridge is currently located on the north side of the property. The proposed pool would be located in its place. If the setback variance is approved, further drainage plans may be required by the City of Fairhope Public Works Department.



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 configuration of the existing dwelling, its position on a side street and its irregular shape could pose potential difficulty when seeking to place an accessory structure on the lot without encroaching in any building setbacks.

(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: Staff finds that the application of the ordinance, in this case, could present an unnecessary hardship. However, it appears that the applicant is seeking to maximize the allowable space on the lot. Several of the existing structures do not meet current zoning regulations. Staff does not support the placement of a pool 6' from the property line. Additionally, accessory structures are required to be behind the rear building line of the primary structure and no nearer to the street than the principle structure on the street side. Staff finds that the pool could be situated so that it does not present such a great encroachment in the required setback.

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

Response: Although the lot is irregular in shape, Staff does not find that the applicant has adequately justified the placement of a pool within 6' of the property line.

(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. However, Staff finds that the addition of an accessory structure can be achieved without such a great encroachment in the building setback.

Recommendation:

Staff recommends DENIAL of BOA 21.09.

Zoning Ordinance Requirements:

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 variances 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

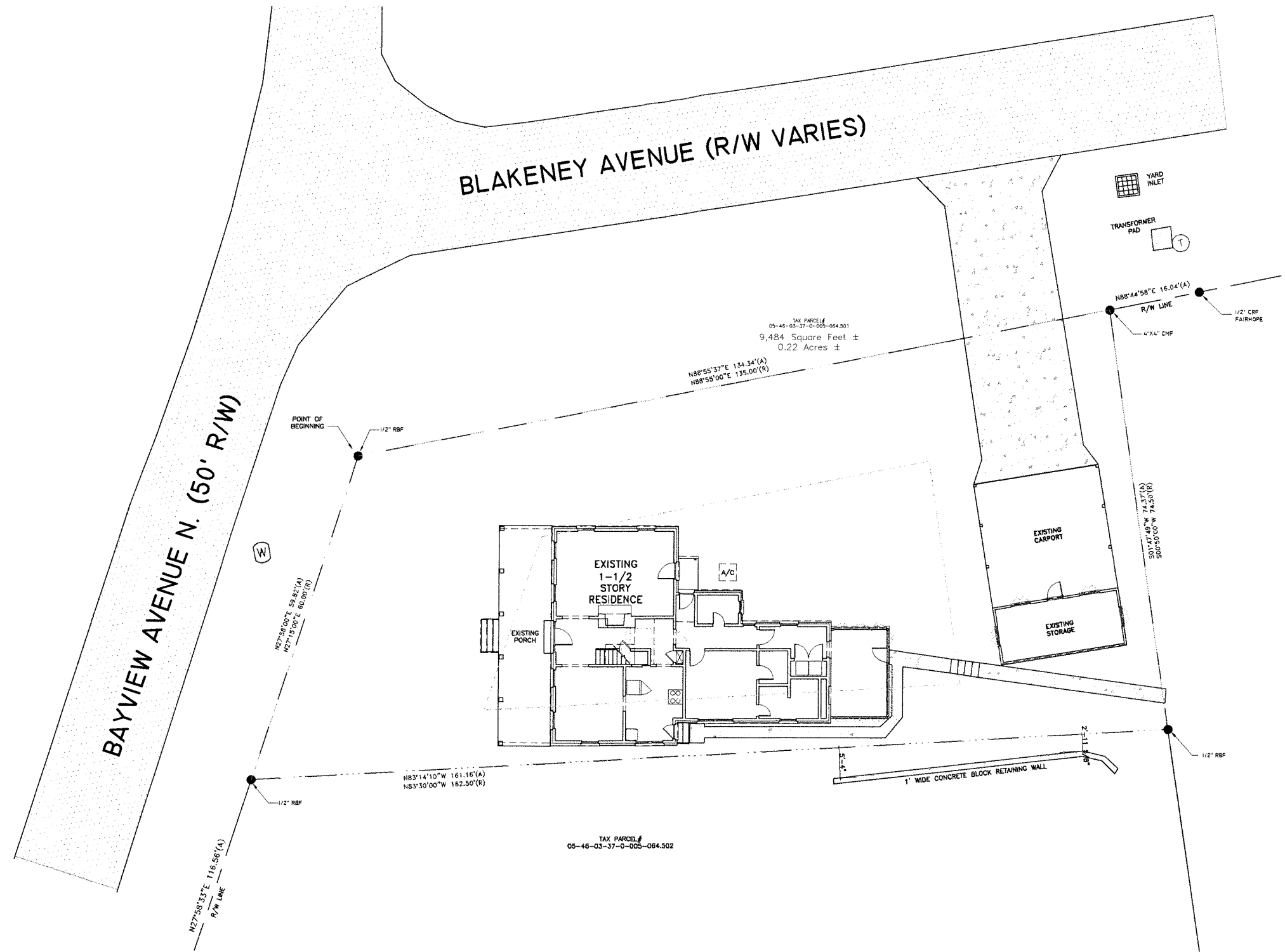
(d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

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

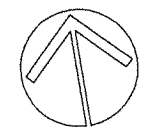
Article II.C.3.g.

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

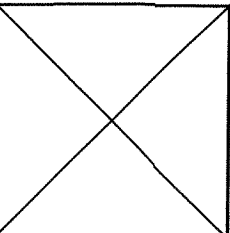
- (1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and
- (2) The variance is recorded with the Judge of Probate.



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BY: *AK*



BOA 21.09

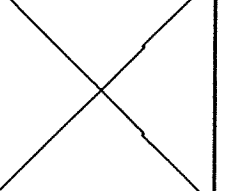


PETE J. VALLAS A.L.A.
A R C H I T E C T
108 LANIER AVENUE
MOBILE, ALABAMA 36607
251.478.7383

AUGUST 09, 2021

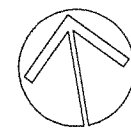
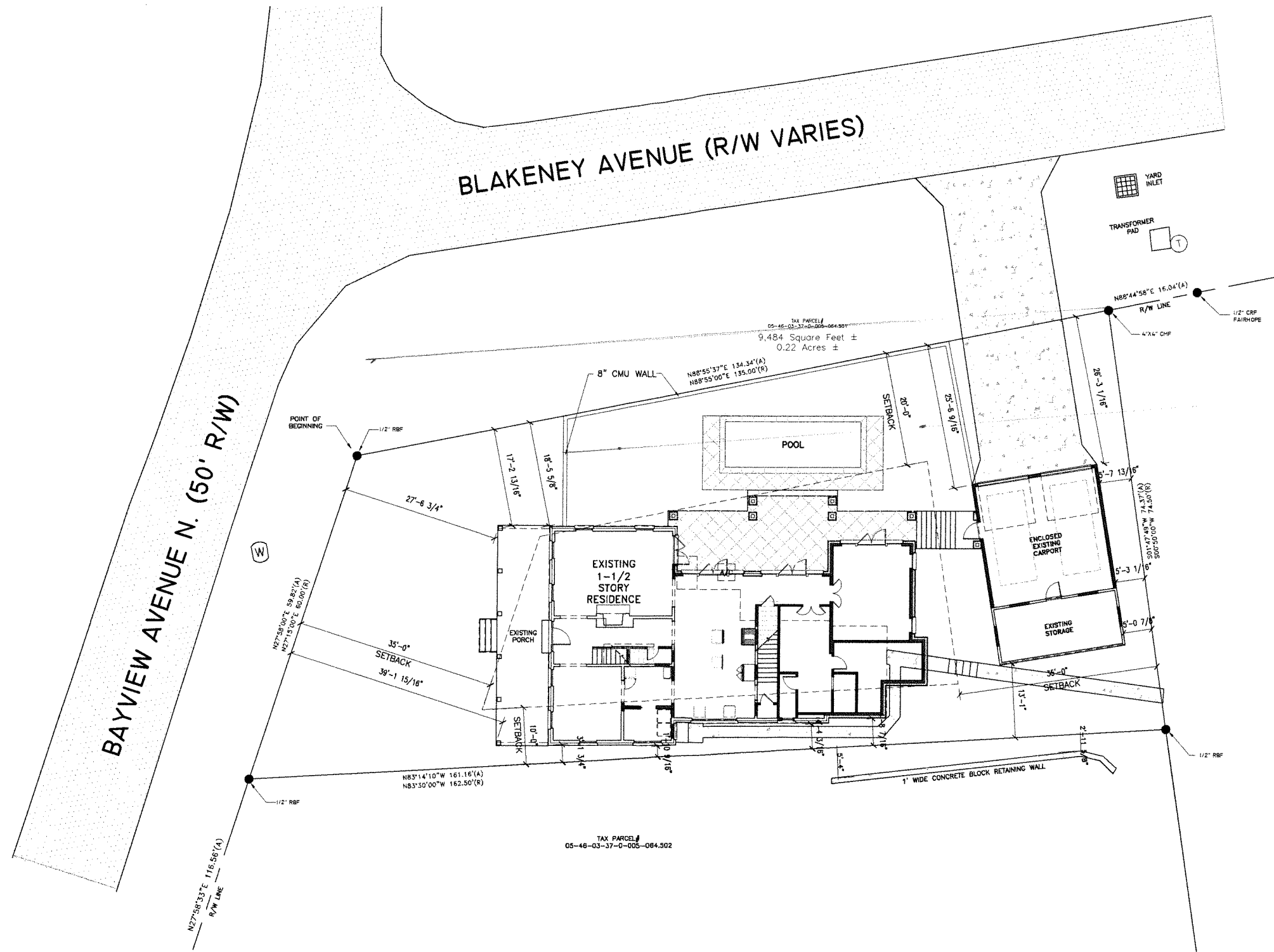
CLAY HOUSE
Julie and Richard Clay
306 North Bayview Street
Fairhope, Alabama 36532

C-1
EXISTING SITE PLAN



1 EXISTING SITE PLAN

SCALE: 1" = 10'



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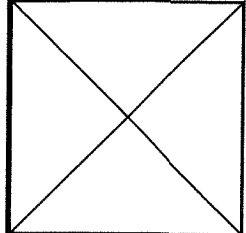
AUG 09 2021

BY: *dlc*

BOA 21.07

1 PROPOSED SITE PLAN

SCALE: 1" = 10'



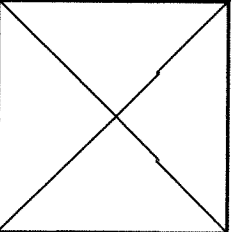
PETE J. VALLAS A.I.A.
ARCHITECT
108 LANIER AVENUE
MOBILE, ALABAMA 36607
251.478.7383

AUGUST 09, 2021

CLAY HOUSE
Julie and Richard Clay
306 North Bayview Street
Fairhope, Alabama 36532

C-2

PROPOSED SITE PLAN

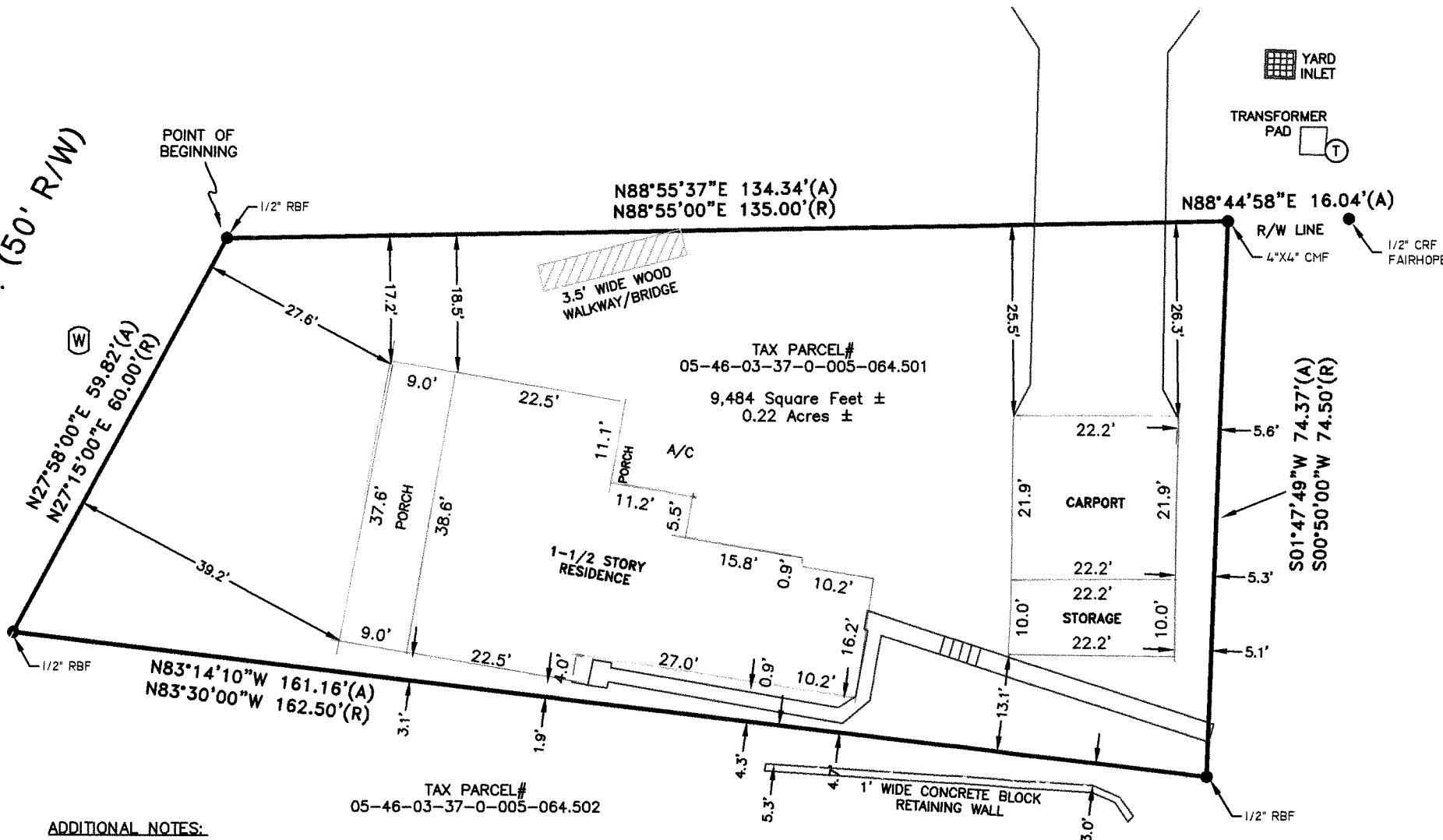




BLAKENEY AVENUE (R/W VARIES)

BAYVIEW AVENUE N. (50' R/W)

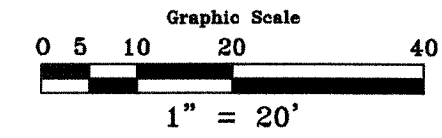
N27°58'33"E 116.56'(A)
R/W LINE



ADDITIONAL NOTES:

THE FOREGOING IS A PLAT OF TAX PARCEL#05-46-03-37-0-005-064.501, FAIRHOPE, ALABAMA, THAT THERE ARE NO OBSERVED ENCROACHMENTS BY BUILDINGS OF ADJOINING PROPERTY EXCEPT AS SHOWN; THAT THERE ARE NO OBSERVED RIGHT-OF-WAY, EASEMENTS, OR JOINT DRIVEWAYS, OVER OR ACROSS SAID LAND VISIBLE ON THE SURFACE EXCEPT AS SHOWN; THAT THERE ARE NO OBSERVED ELECTRIC OR TELEPHONE WIRES (EXCLUDING WIRES WHICH SERVE THE PREMISES ONLY) OR STRUCTURES OR SUPPORTS THEREOF, INCLUDING POLES, ANCHORS AND GUY WIRES, ON OR OVER SAID PREMISES EXCEPT AS SHOWN.

SURVEY LEGEND		
● - PROPERTY CORNER	CRS - 3/8" CAPPED REBAR SET (WOODLANDS CA-1073)	⊙ - POWER POLE
(R) - RECORD DIMENSION	CRF - CAPPED REBAR FOUND	↓ - GUY ANCHOR
(A) - ACTUAL DIMENSION	RBF - REBAR FOUND	⊕ - FIRE HYDRANT
R/W - RIGHT-OF-WAY	CTP - CRIMPED TOP PIPE FOUND	⊗ - WATER VALVE
B.S.L. - BUILDING SETBACK LINES	OTP - OPEN TOP PIPE FOUND	⊕ - WATER METER
X - FENCE	CMF - CONCRETE MONUMENT FOUND	⊗ - WOOD STAKE
— OHP — OVERHEAD POWER LINE		Ⓣ - TELEPHONE PEDESTAL
▭ CONCRETE	▭ GRAVEL	▭ ASPHALT
		Ⓧ - GAS LINE MARKER



SURVEYOR'S NOTES:

- UNLESS STATED OTHERWISE HEREON, THIS PLAT WAS PREPARED WITHOUT BENEFIT OF AN ABSTRACT OF TITLE. NO LIABILITY IS ASSUMED BY THE UNDERSIGNED FOR LOSS RELATING TO ANY MATTER THAT MIGHT BE DISCOVERED BY AN ABSTRACT OR TITLE SEARCH OF THE PROPERTY.
- REPRODUCTIONS OF THIS PLAT ARE NOT VALID UNLESS SEALED WITH AN ORIGINAL SURVEYOR'S SEAL.
- TYPE OF SURVEY - BOUNDARY SURVEY
- ALL BEARINGS BASED ON GLOBAL POSITIONING SYSTEM OBSERVATION USING THE NORTH AMERICAN DATUM OF 1983. ALL DISTANCES SHOWN ARE GROUND DISTANCES. ALL MEASUREMENTS WERE MADE IN ACCORDANCE WITH U.S. STANDARD FEET.
- FIELD WORK WAS PERFORMED 06/07/2018.

RECORD PROPERTY DESCRIPTION:

BEGIN ON WEST SIDE BLOCK FOUR (4), DIVISION THREE (3), OF LAND OF LESSOR IN THE CITY OF FAIRHOPE, ALABAMA AS PER ITS PLAT THEREOF FILED FOR RECORD SEPT. 13, 1911, MISC. BOOK 1, PAGES 320-21, PROBATE RECORDS, 60 FT. S 27 DEGREES 15' W FROM NORTHWEST CORNER OF SAID BLOCK, THENCE S 83 DEGREES 30' E, 162.5 FT. MORE OR LESS, TO W/S OF RELOCATED N.S. ALLEY, THENCE N 00 DEGREES 50' E, 74.5 FT., MORE OR LESS, TO S/S BLAKENEY ST., THENCE S 88 DEGREES 55' W, 135 FT., MORE OR LESS TO NORTHWEST CORNER OF SAID BLOCK AND S 27 DEGREES 15' W, 60 FT. TO BEGINNING, BEING PARTS OF LOTS 4 AND 4 AND VACATED PLATTED ALLEY ACCORDING TO A RESURVEY OF SAID BLOCK BY H. W. GRAHAM DATED JANUARY 8, 1940, SUBJECT HOWEVER TO RIGHT OF CITY OF FAIRHOPE TO ACCESS TO SUCH WATER MAINS AS MAY BE LOCATED IN SUCH VACATED ALLEY, FRAC'L SECTION 18, T6S, R2E, BALDWIN COUNTY, ALABAMA.

SURVEYORS CERTIFICATION:

STATE OF ALABAMA, COUNTY OF BALDWIN
I, JUSTIN PALMER, A LICENSED PROFESSIONAL SURVEYOR IN BALDWIN COUNTY, ALABAMA, HEREBY CERTIFY THAT ALL PARTS OF THIS PLAT AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

DATE: 8/14/2018

RECEIVED

AUG 09 2021

BOA 21-09

REFERENCE MATERIAL	DATE
1. RECORD DEED INSTRUMENT #1428438	11/06/2013
2.	
3.	
4.	

BOUNDARY SURVEY
TAX PARCEL# 05-46-03-37-0-005-064.501
BAYVIEW AVENUE, FAIRHOPE
BALDWIN COUNTY, ALABAMA
SECTION-37, TOWNSHIP-6-SOUTH, RANGE-2-EAST

CLIENT:	
FIELD WORK BY: CR, CG	DATE: 08/07/2018
DRAWN BY: KJ	DRAWING NO.: 18032(3)
CHECKED BY: JP	SHEET 1 OF 1
SCALE: 1"=20'	

BY: THE *AP*
WOODLANDS
 GROUP
 Surveying Solutions

August 9, 2021

VARIANCE REQUEST INFORMATION

Describe the indicated conditions:

ITEM 1. I have purchased my parent's 1936 home from my siblings with the intention of restoring it for myself and my wife to move into when I retire and move from Huntsville to Fairhope. We love the historic character of the house and would like to renovate as much of it as possible while making some additions and alterations to the rear to better suit the way we would like to live in retirement. The Lot is on a corner with a 20'-0" side yard setback along the side street. The Lot consists of 9,483.65 square feet, below the Minimum Lot Area of 10,500 square feet for an R-2 Lot. The Lot also has an irregular trapezoidal shape which is narrower in the front than in the rear. The Lot also has a steep uphill slope in the rear yard up to an existing carport/storage building which sits approximately 8' above the grade of the house. We would also like to build a privacy wall setback slightly from the west front of the house, then run it along the north property line to the existing driveway, then turn it to connect with the existing carport/storage building. This privacy wall would create a private side yard visible from all existing and new areas of the house. We have been told by Fairhope Planning and Zoning that a privacy wall as described is acceptable. Within this enclosed private side yard we would like to place a small inground gunite swimming pool which would be totally screened from the street and passerbyers.

How do the above indicated characteristics preclude reasonable use of your land?

ITEM 2. The substandard square footage of the Lot, the irregular trapezoidal shape of the Lot, and the steep uphill slope with the rear 35'-0" of the Lot being approximately 8'-0" above the grade of the house all make for difficulties in planning additions and alterations as well as locating a small swimming pool. The rear 35'-0" of the Lot would be an ideal location for a pool if not 8'-0" above the finished floor of the house. Typically, a homeowner wants to look out their windows and doors and both see and have access to the recreational areas of their yard. They do not want to look at nor have to maneuver up a retaining wall or a steep grade to a recreational area whether with a pool or not.

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

ITEM 3. We are requesting a side yard variance to construct a small inground gunite swimming pool approximately 8'-0" wide by 24'-0" long to come within 6'- 6" of the side property line at its northwest corner and within 11'-2" at its northeast corner.

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

ITEM 4. From my perspective I see three very real hardships.

First is the substandard square footage of the Lot. According to the CITY OF FAIRHOPE'S ZONING ORDINANCE, Article III, Section C. Dimension Standards the Minimum Lot Area for an R-2 Lot is 10,500 square feet. The Lot consists of 9,483.65 square feet which is 89.7% smaller than the Minimum Lot Area required. If my Lot were 10.3% larger and met the 10,500 square feet minimum for an R-2 Lot, I would have no difficulty fitting an 8'-0" wide swimming pool in my side yard without encroaching on the side yard setback.

Second is the substandard width of the Lot. Section C. Dimension Standards also states a Minimum Lot Width for an R-2 Lot of 75'. The Lot is 60' wide where it fronts Bayview Avenue and 74.5' along its rear property line. If my Lot were a regular rectangular lot 75' wide front and back with the same 20'-0" side yard setback along the side street, I would have no difficulty fitting an 8'-0" wide swimming pool in my side yard without encroaching on the side yard setback.

Third is the extreme uphill slope of the Lot. The property is relatively level from the west front of the house to the east rear of the house. Then the property slopes steeply uphill approximately with the final 35' being approximately 8'-0" above the grade of the remainder of the property.

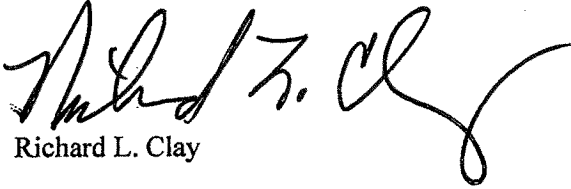
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AUG 09 2021

BY: AK

August 9, 2021

I hereby appoint Robert Brown as my agent and representative in this variance application.



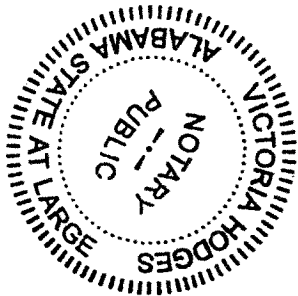
Richard L. Clay

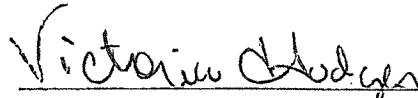
State of Alabama

Madison County

Sworn to before me and subscribed in my presence by Richard L. Clay this 9th day of August, 2021.

Seal




Notary Public

My commission expires: 7/8/2025



CERTIFICATION OF PROPERTY OWNER NOTIFICATION LIST
As Required by the City of Fairhope

Hearings on Board of Adjustments & Appeals applications require notification to all property owners within 300 feet of the property under consideration for the change. This list must be the most current property owners' records available from the Baldwin County Revenue Office.

By signing below, I Richard W. Clay, (applicant) do hereby certify that the property owner list attached to this application was obtained from the Baldwin County Revenue Office and is a complete list of all real property owners/lessees within 300 feet of the parcel submitted for consideration by the Board of Adjustments & Appeals.

Richard W. Clay
Signature of Applicant or Authorized Agent

8/8/2021
Date of Application

RECEIVED

AUG 09 2021

BY: AK

JULIE & RICHARD CLAY
306 NORTH BAYVIEW STREET
FAIRHOPE, ALABAMA 36532

BRUMBACK, CATHY J ETAL
PATTERSON, LO
P O BOX 421
FAIRHOPE, AL 36533

MYRICK, PAUL D ETUX KAREN C
308 N BAYVIEW DR
FAIRHOPE, ALABAMA 36532

DE GUTZ, DONALD M ETAL DE
GUTZ, COLL
60 11TH ST NE APT 1020
ATLANTA, GA 30309

SULLY, RUTH JEANETTE
300 N BAYVIEW ST
FAIRHOPE, ALABAMA 36532

MCLAUGHLIN, CAROLYN T
108 BLAKENEY AVE
FAIRHOPE, ALABAMA 36532

WHITE-SPUNNER, KENNETH P
ETAL WHITE
P O BOX 1377
POINT CLEAR, AL 36564

BLOSSER, HELEN M
350 N BAYVIEW AVE
FAIRHOPE, ALABAMA 36532

SKIDMORE, MARVIN G & CAROL
A
110 POWELL AVE
FAIRHOPE, ALABAMA 36532

BRODERICK-CANTWELL, JOHN
ETAL BRODER
356 N BAYVIEW AVE
FAIRHOPE, ALABAMA 36532

GRANADE, LUCILLE W (93% INT)
ETAL GR
109 POWELL AVE
FAIRHOPE, ALABAMA 36532

DUNN, HAROLD BRADFORD
ETUX KATHERYN
2508 WATKINS CIR
BIRMINGHAM, AL 35223

SCHNEIDER, JOSEPH ETAL
SCHNEIDER, RO
5403 PIGEON COVE DR
GREENSBORO, NC 27410

MCCOWN, T VANCE ETAL
MCCOWN, TERESA
351 N SUMMIT ST
POINT CLEAR, AL 36532

ORR, ELIZABETH M
301 N SUMMIT ST
FAIRHOPE, ALABAMA 36532

MASSUCH, THOMAS H ETUX
BRENDA K
355 NORTH SUMMIT ST
FAIRHOPE, ALABAMA 36532

WALKER, PELLUM S ETUX
SHARON L
303 N SUMMIT ST
FAIRHOPE, ALABAMA 36532

SPINKS, CARLTON ETAL
SPINKS, SHANNON
361 SUMMIT ST N
FAIRHOPE, ALABAMA 36532

EVANS, DANIEL CHARLES ETAL
EVANS, LE
307 N SUMMIT ST
FAIRHOPE, ALABAMA 36532

From: Don De Gutz <donldd@aol.com>
Sent: Thursday, September 9, 2021 10:46 AM
To: planning <planning@fairhopeal.gov>
Subject: Board of Adjustment Case: BOA 21.09 - Concerns

SENT FROM AN EXTERNAL ADDRESS

We are the FST Lessees at 110 Blakeney Avenue. We are concerned for the Subject Variance Request in regards to an interruption of our sightline to the Bay. We are seeking more information about the request to accommodate an "accessory structure," presumably to be located on a reduced setback adjacent to Blakeney Avenue.

Please provide details and visual aid(s) depicting the proposed structure and its location upon the property at 306 N. Bayview Street.

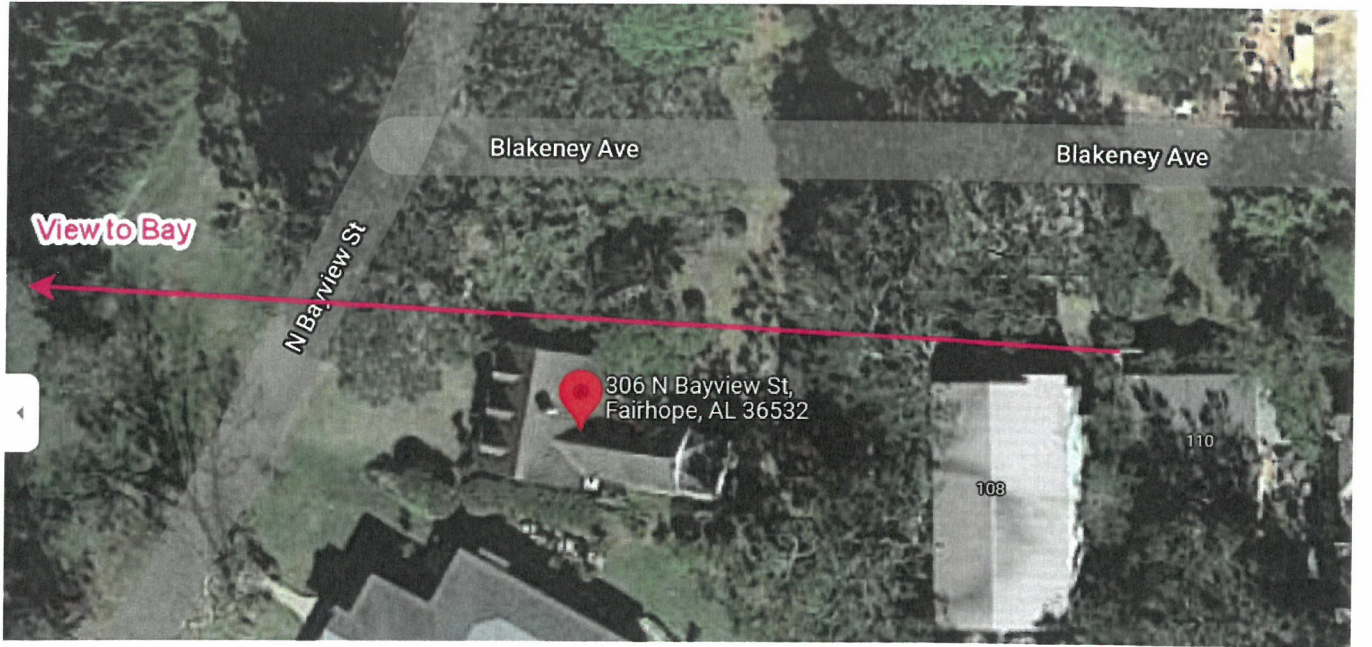
See attachment.

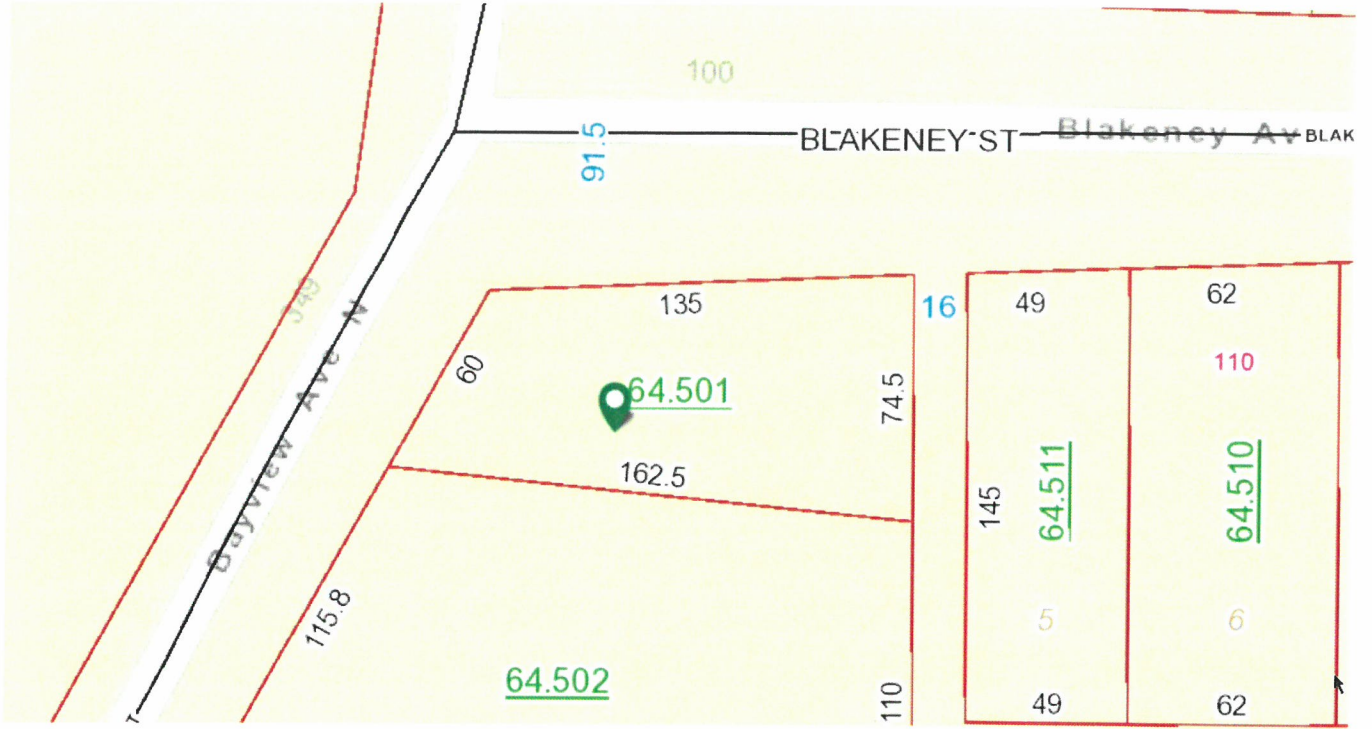
Thank you,

Donald and Colleen De Gutz

donldd@aol.com

510-220-7669

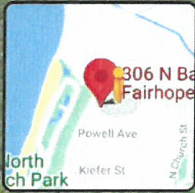




110 Blakeney Ave
Fairhope, Alabama

Google

Street View - Apr 2011



Google

C. Dimension Standards

1. Lots and Principal Structure

Table 3-2 indicates general dimension standards for lots and principle structures in all zoning districts. Unless otherwise specified in Section D. – Special Conditions for Uses, or Article V. – Special Districts, all lots and principle structures shall meet these standards.

Table 3-2: Dimension Table - Lots and Principle Structure

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/A	3 acres/ -	198'	75'	75'	25'	50'	none	30'
R-1	15,000 s.f./ -	100'	40'	35'	10' ^b	20'	40%	30' ^a
R-1a	40,000 s.f./ -	120'	30'	30'	10' ^b	20'	25%	35'
R-1b	30,000 s.f./ -	100'	30'	30'	10' ^b	20'	25%	35'
R-1c	20,000 s.f./ -	80'	30'	30'	10' ^b	20'	25%	35'
R-2	10,500 s.f./ -	75'	35'	35'	10' ^b	20'	37%	30' ^a
R-3	7,800 s.f./ -	65'	30'	35'	8' ^b	20'	35%	30'
R-3 PGH	4,000 s.f./ -	40'	20'	15'	10' ^b	10'	32.5%	30'
R-3 TH	2,400 s.f. 1/2 -	24'	20'	35'	0' ^c	20'	45%	30'

108 Blakeney Avenue
Fairhope, Alabama, 36532
September 8, 2021

Re: Case BOA 21.09
306 N. Bayview Street

To the Board of Adjustment:

My husband and I live on 108 Blakeney Avenue, which is next to the above property. We have not been notified of any structure changes to the above carport until we received your notice today.


We have lived in our home since 2007, and bought our lot in 2002 with the knowledge that we would be able to see Mobile Bay from our front porch. Indeed, our entire house was designed around this, with the porch only on that side.

If the setback is reduced, our view of Mobile Bay will be compromised, and this will also decrease the value of our lot.

I value my neighbor's friendship, but would like to see exactly what his plans show before deciding on such an arrangement.

Thank you very much for considering my comments.

Sincerely,


Carolyn T. McLaughlin



Leon D. McLaughlin, Jr.