

City of Fairhope Board of Adjustments Agenda 5:00 PM Council Chambers April 18, 2022

Sherry Sullivan *Mayor*

1. Call to Order

Council Members

2. Approval of Minutes

Kevin G. Boone

March 21, 2022

Robert A. Brown

3. Consideration of Agenda Items

Jack Burrell, ACMO

A. BOA 22.04 Public hearing to consider the request of the Applicant, Rob Littleton, acting on behalf of the Owner, Patricia Niemeyer, for a 14' front setback variance as well as a 30' rear setback variance. The property is approximately 0.28 acres and is located at 863 Creek Drive.

Jimmy Conyers

PPIN #: 63531

Corey Martin

4. Old/New Business

Lisa A. Hanks, MMC

City Clerk

Kimberly Creech

City Treasurer

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, March 21, 2022, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

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

Absent: Mike Baugh.

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

Approval of Minutes

Frank Lamia made a motion to approve the minutes from the January 20, 2022, meeting.

Cathy Slagle seconded the motion and the motion carried unanimously with the following vote:

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

Nay: None.

BOA 22.03 Public hearing to consider the request of the Applicant, Cowles, Murphy, Glover & Associates, acting on behalf of the Owner, Robert M. Green, Jr., for a Special Exception to allow for a Medical Clinic Use for property zoned B-2, General Business District. The property is approximately 1.66 acres and is located on the west side of US Highway 98, south of Hoyle Avenue.

PPIN#: 17231

Hunter Simmons, Planning and Zoning Manager, presented the case summary.

The applicant desires to develop the subject property of Fairhope Urology as a Clinic, which is allowed only on appeal and subject to special conditions. A Site Plan review and a Minor Subdivision review was considered at the March 2022 Planning Commission for the Fairhope Urology project. The Planning Commission approved the Minor Subdivision to create four lots and made a recommendation to the City Council to approve the Site Plan. The Site Plan is tentatively scheduled to be reviewed by the City Council on April 11, 2022.

The Planning Department did receive a few comments from neighbors regarding drainage, but drainage is not something that would be reviewed during a Special Exception case and was reviewed during the minor subdivision case at Planning Commission.

Frank Lamia asked where the water travels and where the line of the B-2 and R-1 zoning was.

Mr. Simmons stated that the water drains to the southwest and there is an existing ALDOT drainage easement on the southern portion of the property. Mr. Simmons showed what was zoned B-2 and R-1 and where the buffer would be to protect the residential zoning from the B-2 zoning. The drainage easement is located on the R-1 zoned property that prevents it from being built on in the future.

March 21, 2022 Board of Adjustments Minutes

Recommendation:

Staff recommends approval of BOA 22.03 for the Special Exception for clinic use for Fairhope Urology.

Donna Cook stated that she was concerned about the parking.

Mr. Simmons stated that they meet the parking requirements per the Zoning Ordinance.

Chairman Vira opened the Public Hearing. Having no one present to speak, the Public Hearing was closed.

Motion:

Frank Lamia made a motion to approve Case BOA 22.03.

Cathy Slagle seconded the motion and the motion carried unanimously with the following vote:

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

Nay: None.

Old/New Business

Mr. Simmons stated that there would be one case on the agenda for next month.

Adjournment

Cathy Slagle made a motion to adjourn, and the motion carried unanimously with the following vote:

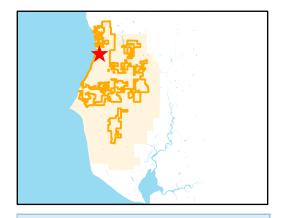
Aye: Anil Vira, Cathy Slagle, Frank Lamia, a	nd Donna Cook.
Nay: None.	
Adjourned at 5:18 p.m.	
Anil Vira, Chairman	Allie Knutson, Secretary

City of Fairhope Board of Adjustments

OF FAIRTHOUSE THE STATE OF THE

April 18, 2022

BOA 22.04 - 863 Creek Drive





863 Creek Drive

Site Data:

Appx. 0.28 Acres

Project Type:

14' Front Setback and 30' Rear Setback

Variance

Jurisdiction:

City of Fairhope

Zoning District:

R-1

PPIN Number:

63531

General Location:

North Side of Creek Drive West of N $\,$

Section Street

Surveyor of Record:

Rowe Engineering and Surveying, Inc.

Engineer of Record:

Rowe Engineering and Surveying, Inc.

Owner / Developer:

Patricia Niemeyer

School District:

Fairhope Elementary School

Fairhope Middle and High Schools

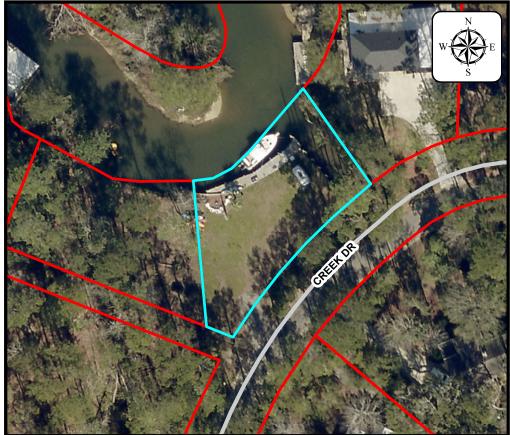
Recommendation:

Denial

Prepared by:

Casey Potts





MAR 14 2022



APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: Administrative Appeal Special Exception Variance				
Property Owner / Leaseholder Information Name: PHTRICH NIEMEYER Phone Number: 251.209-8738 Street Address: 302 POPLAR PL. City: FAIRHOPE State: AL Zip: 36532				
Applicant / Agent Information If different from above. Notarized letter from property owner is required if an agent is used for representation. Name: ROBLITTION Phone Number: 229-8059 Street Address: 202 PORAR R City: TRYOLA State: Zip: 36532				
Site Plan with Existing Conditions Attached: Site Plan with Proposed Conditions Attached: VES NO Variance Request Information Complete: Names and Address of all Real Property Owners within 300 Feet of Above Described Property Attached: VES NO VES NO VES 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. PHYRICH NIEWEYEP Property Owner/Leaseholder Printed Name 3/14/2022				
Date Fairhope Single Tax Corp. (If Applicable) RECEIVED				



RECEIVED

MAR 14 2022

BY: Ole

VARIANCE REQUEST INFORMATION

What characteristics of the p	property prevent / pr	eclude its development?:	
Too Narrow	Elevation	n Soil	
Too Small	Slope	Subsurface	
Too Shallow	Shape	Other (specify)	
Describe the indicated condit TRONTL REAR SE	T BACK ME haracteristics preclud SET BACK OF	THAT OTHER OVER YOUT OF THE I de reasonable use of your land? 40 DOEST NOT LEWE	t 40°.
LOST A LOT OF S	DUTRE FOOTAGE		
be contrary to the public int	Alabama 1975 Section specific cases such varial erest, where, owing to specific to unnecessary hard	CK FROM 40 TO 30 THE UP PAST SET BACK 4". SET BACK FROM 90 TO 5 30' AND 30'	eff:
BOA Fee Calculation:			
Filing Fee:	esidential \$100	\$500	
Publication:	\$20	\$20	
TOTAL: \$			
Submit this application to the Corp. an authorized Single Tar Property Owner/Leaseholder F	City for review. *If p. x representative shall representative shall represented Name	of the above described property and hereby roperty is owned by Fairhope Single Tax I sign this application.	
73/14/2022 Date		Fairhope Single Tax Corp. (If Applicable)	
-uic /		rannope single rax corp. (11 Applicable)	

The applicant, Rob Littleton, on behalf of the Owner, Patricia Niemeyer, is requesting a 30' variance to the rear setback and a 14' variance to the front setback on Lot K of the Volanta View Number 2 Subdivision. The property is zoned R-1 Low Density Single-Family Residential District. If approved, the rear setback for Lot K would be 5' in lieu of the required 35' and the front setback would be 26' in lieu of the required 40'.

This property was considered by the Board of Adjustments in BOA Case 14.01. In 2014, the applicant requested a 30' variance to the rear setback and a 10' variance to the front setback on Lot K of the Volanta View Number 2 Subdivision. Due to the shape of the subject property, staff recommended the Board of Adjustments approve the thirty-foot rear setback and the ten-foot front setback variance request. The Board of Adjustments approved the variance request, per staff recommendation.

Current BOA Case 22.04 makes a similar request. The difference is the front setback variance request. Figure 1 details the proposed dwelling layout on the site in relation to the variances granted in BOA Case 14.01. The proposed site plan indicates that the dwelling is 26' from the front property line. As such, the applicant requests a 14' variance of the front setback, which is more than the 2014 BOA variance requested.

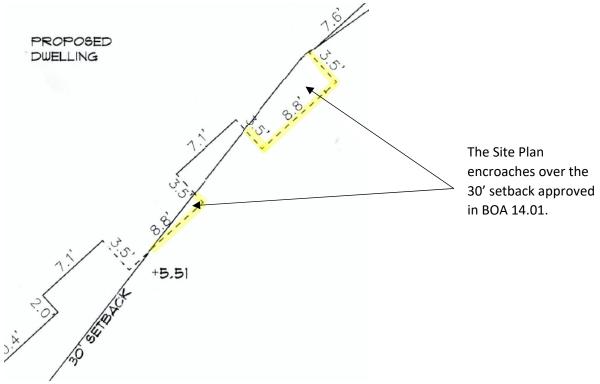


Figure 1: Encroachment of the Site Plan on the 2014 30' Front Setback

The Zoning Ordinance states that, "prior to granting a variance, the Board shall find that...there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography" (Article II, Section A, 4.d.(3)(a)). As cited in

BOA 14.01, the subject property is oddly shaped, creating a hardship due to the dimensions the property. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its shape.

When discussing topography, however, there is no hardship. As shown in Figure 2, the site experiences three feet in total topography change over the entire site.

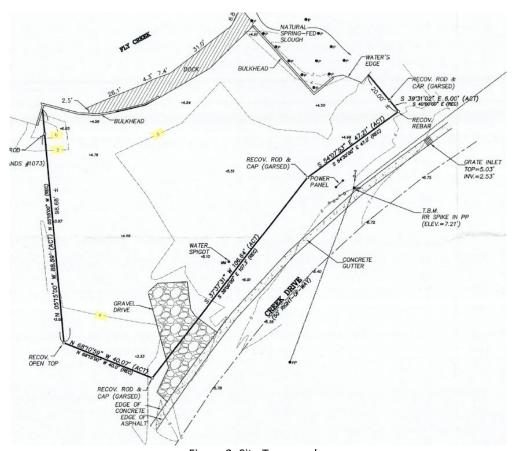


Figure 2: Site Topography

Since topography is not an issue, translation of any structure on site is possible. Figure 3 shows an adjusted site plan that translates the proposed dwelling within the setbacks as they were approved in 2014. The 20' wetland buffer is scaled in as well.

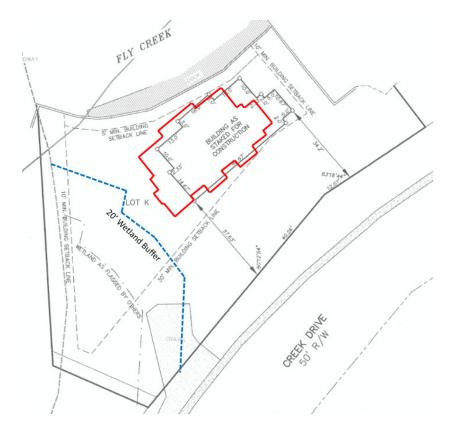


Figure 3: Adjusted Site Plan

For reference, building elevations are included below in Figure 4.

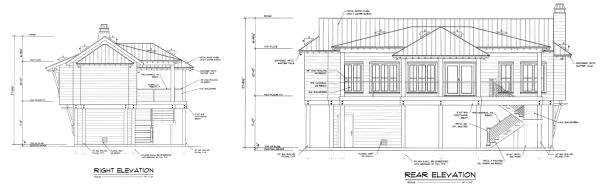


Figure 4: Building Elevations

Due to the fact that topography would allow for translation of a structure within the building setbacks, staff recommends DENIAL of BOA 22.04. Staff does not support the variance to the front setback of 14 feet. However, staff supports a variance to the front setback of 10 feet and a variance to the rear setback of 30 feet, as originally approved in BOA 14.01.

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 lot shape is not typical. The lot has an unusual pie shape where a 40' front and rear set back meet each other over most of the lot. A portion of the area that does not have overlapping front and rear setbacks contains wetlands.

(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 maintains agreement with the recommendation made in BOA 14.01.

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

Response: The triangular shape of the subject property, combined with the wetlands, is unique.

(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 does not believe that granting the variance would cause substantial detriment to the public good or impair the purpose and intent of the ordinance.

Recommendation:

Staff recommends DENIAL of BOA 22.04. Staff does not support the variance to the front setback of 14 feet. However, staff supports a variance to the front setback of 10 feet and a variance to the rear setback of 30 feet, as originally approved in BOA 14.01.

Zoning Ordinance Requirements:

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 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) 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:

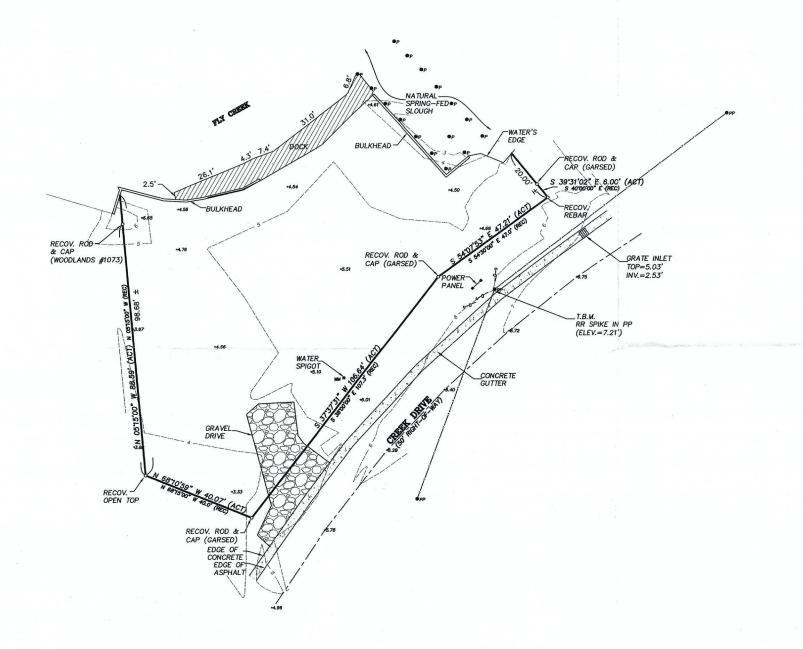
- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship 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.



NOTES:

- 1.) Basis of Bearing: West line of Lot K, Volanta View No. 2
- 2.) Type of Survey: Boundary & Topographic
- 3.) Field Date: June 14, 2018
- 4.) All corners are noted.
- 5.) This drawing does not reflect an easement or title search by the surveyor. Easements or Claims of easements may exist.
- 6.) Line labeled waters edge on this plat does not represent a rigorous determination of the Mean high water line. The mean high water line is the delineation between privately held property and the waters of the United States of America and or the State of Alabama.

LEGAL DESCRIPTION

STATE OF ALABAMA)
COUNTY OF BALDWIN)

Lot K, Volanta View No. 2 Subdivision as recorded in Map Book 5, Page 162, Probate Records, Baldwin County, Alabama.

I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief.

This is to state that I have consulted the Ferna Flood Insurance Rate Map No. 01003C0642L, dated July 17, 2007, and found that the above described property now is located in Flood Hazard Area "AE" (EL. 11) as determined by graphic scaling.

Cecil T. Hudsop, PLS
Alabama Licensed Professional
Land Surveyor No. 29983-S
Prints not valid unless they bear an original seal

06/14/18

REVISIONS:

BOUNDARY AND TOPOGRAPHIC SURVEY OF
LOT K, VOLANTA VIEW NO. 2

PREPARED FOR
ROB LITTLETON

ROWE ENGINEERING & SURVEYING, INC.
A HIGHLAND TECHNICAL SERVICES COMPANY
CONSULTING ENGINEERS

ALABAMA CA-1064-LS
FLORIDA LB-8101-PS
MISSISSIPPI CA-26105-LS
3502 LAUGHLIN DRIVE SUITE B
MOBILE, ALABAMA 36893
PHONE 251-686-2766
PAX 251-660-1040

ACAD: 50340
INCAD:
DRIVE 1591/41-42
JUNE. 14, 2018
CHECKER BY:
SCALE:
TAX:

C COPYRIGHT 2018
ALL RIGHTS RESERVED
ROWE ENGINEERING AND SURVEYING, IN

LEGEND DENOTES HUB & TACK SET FLY CREEK FLOODWAY 5' MIN. BUILDING SETBACK LINE 8376'44 LOT K BUILDING METI AND AS ELACORD SETBACK LINE FLOOD ZONE "AE" (EL 11) N GRAVEL FLOOD ZONE

"AE" (EL 10)

NOTES:

- 1.) Type of Survey: Concruction Siakeout.
- 2.) Field Date(s): January 19, 2022.
- Bearing Basis: Referenced to Alabama State Plane Coordinate System West Zone (102) NAD 83(2011) established by RTK GPS utilizing ALDOT Net as a continuously operating reference station.
- 4.) All corners are as noted.
- Setback lines shown on this plat are taken from Fairhope Board of Adjustment Letter dated 1/21/2014 as provided by client.
- This drawing does not reflect an easement or title search by the surveyor. Easements or Claims of easements may exist.
- 7.) Line labeled waters edge on this plat do not represent a rigorous determination of the mean high water line. The mean high water line is the delineation between privately held property and the waters of the United States of America and or State of Alabama.
- 8.) The Alabama Department of Conservation and Natural Resources Administrative Code Chapter 220—4—.09, Paragraph 12, states that a setback 10 feet from the Riparian Line of adjacent property owners shall be required.

LEGAL DESCRIPTION

STATE OF ALABAMA) COUNTY OF BALDWN)

Lot "K", Volanta View, No. 2, as recorded on Silde 407—B, Probate Court Records, Baldwin County, Alabama.

This is to state that I have consulted the Federal Insurance Administration Flood Hazard Joundary Map No. 01003C0642 M, and dated April 19, 2019, and found that the above describes property now is located in Flood Hazard Areas AE (EL 10) & AE (EL 11) as determined by graphic scaling.

Date: JANUARY 19, 2022

Cecil T. Hudson, PLS
Alabama Licensed Professional
Land Surveyor No. 29983—S
Prints not valid unless
they bear an original seal

AS STAKED BUILDING



ROWE

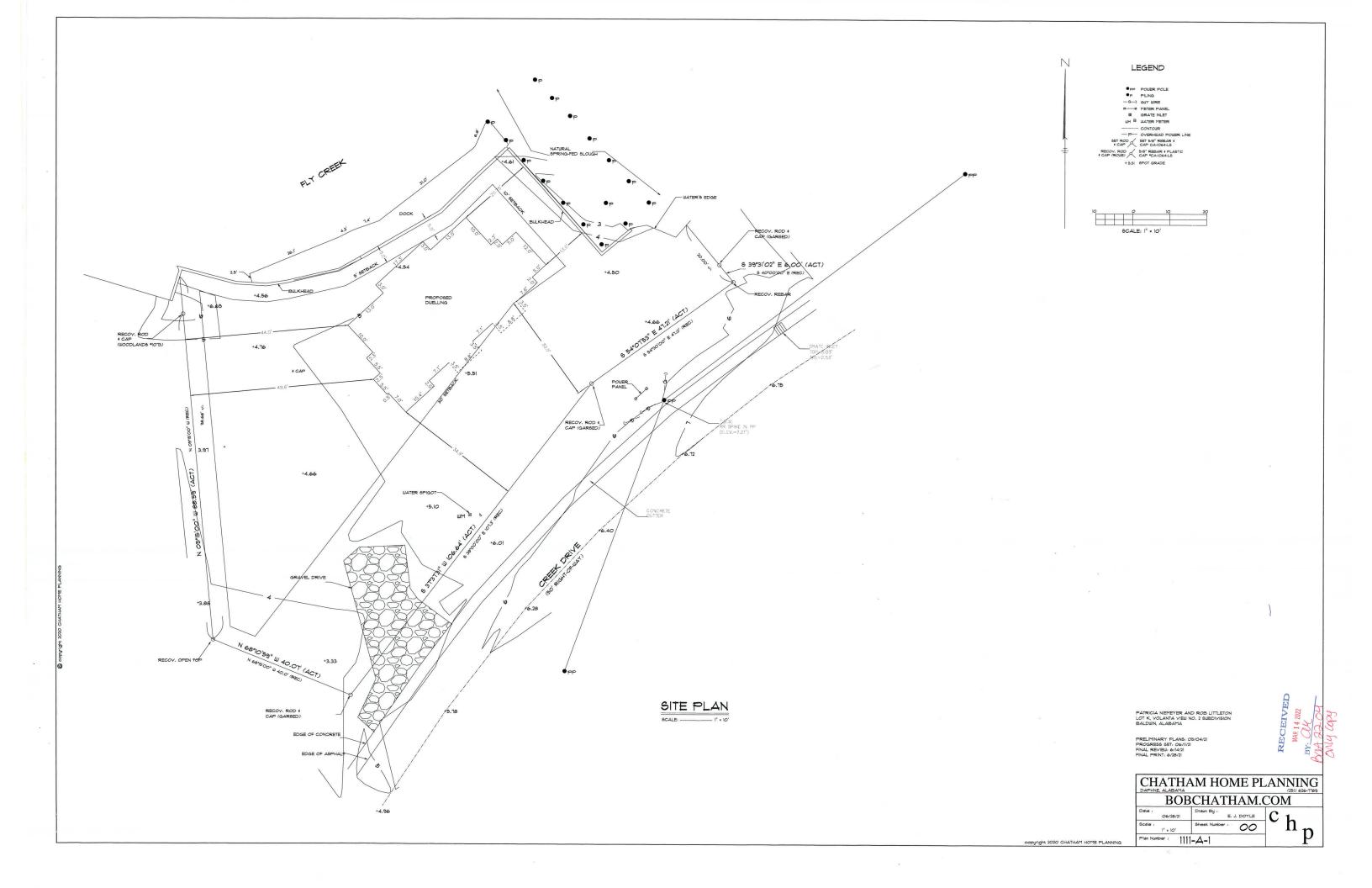
ENGINEERING & SURVEYING consulting engineers

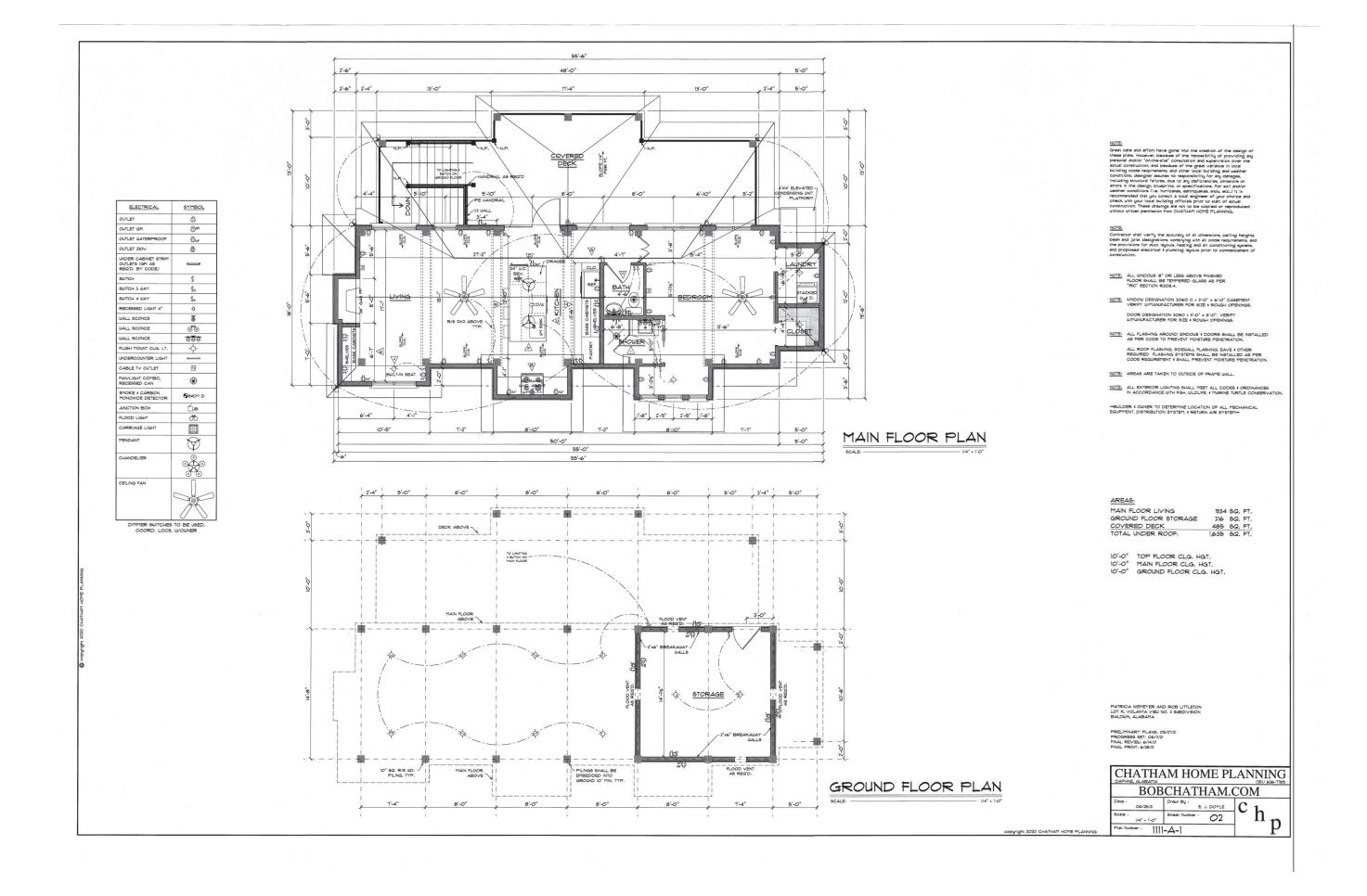
3502 LAUGHLIN DR • SUITE B • MOBILE, AL 36693 PHONE 251-666-2766 • FAX 251-660-1040

DRAWING: 51888.dwg DRAWN BY: WJM SCALE: 1" = 20'

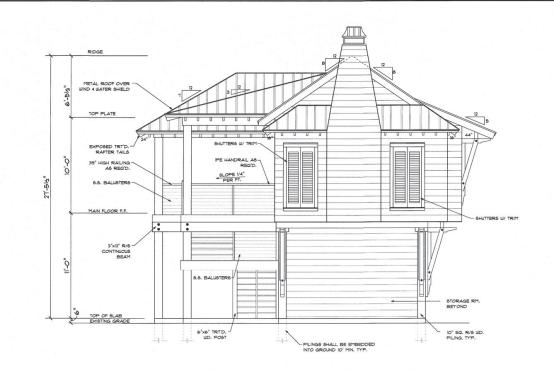
COPYRIGHT 2022
ALL RIGHTS RESERVED
ZEKE-TRICE, LLC
Dba: ROWE ENGINEERING & SURVEYING

JOB: 51888 FB:2013/21 TAX: 46-03-08-0-002-012.000 PLAT DATE: 1/27/2022 CHECKED BY: CTH

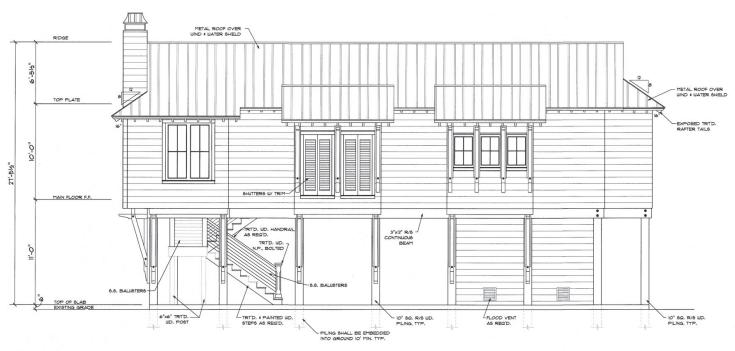




- NOTE: ALL WINDOWS 18" OR LESS ABOVE FINISHED FLOOR SHALL BE TEMPERED GLASS AS PER "IRC" SECTION R308.4.
- DOOR DESIGNATION 3080 . 3'-0" x 8'-0", VERIFY W/MANUFACTURER FOR SIZE 4 ROUGH OPENINGS.
- NOTE: ALL FLASHING AROUND WINDOWS & DOORS SHALL BE INSTALLED AS PER CODE TO PREVENT MOISTURE PENETRATION. ALL ROOF FLASHING, SIDEWALL FLASHING, EAVE & OTHER REQUIRED FLASHING SYSTEMS SHALL BE INSTALLED AS PER CODE REQUIREMENT & SHALL PREVENT MOISTURE PENETRATION
- NOTE: BUILDER SHALL INSTALL ADEQUATE ATTIC VENTILATION.
 - IF PERIMETER INSULATION IS USED BELOW ROOF DECKING, I.S. OPENICLOSED CELL INSULATION, THEN ATTIC YENTILATION IS NOT REQUIRED.
- NOTE: ALL EXTERIOR LIGHTING SHALL MEET ALL CODES 4 ORDINANCES IN ACCORDANCE WITH FISH, WILDLIFE, 4 MARINE TURTLE CONSERVATION.



LEFT ELEVATION



FRONT ELEVATION

Contractor shall verify the accuracy of all clinerators, calling heights, beet and joint designations, complying with all code requirements, and the provisions for duct lagoust, heating and air conditioning systems, and proposed electrical 4 pluribing layouts prior to commencement of of construction.

CHATHA DAPHNE, ALABAMA	AM HOME PI	LANNING		
BOBCHATHAM.COM				
Data : 06/28/21	Draun By : E. J. DOYLE	C 1		
Scale : 1/4" = 1'-0"	Sheet Number: 03	h n		
Plan Number : 111	1- 1-	1 P		

Copyright 2020 CHATHAM HOME PLANNING

NOTE: ALL WINDOWS 18" OR LESS ABOVE FINISHED FLOOR SHALL BE TEMPERED GLASS AS PER

NOTE: WINDOW DEBIGNATION 3060 C * 3'-0" × 6'-0" CASEMENT VERIFY WIMANUFACTURER FOR SIZE 4 ROUGH OPENINGS,

DOOR DEBIGNATION 3080 * 3'-0" × 8'-0", VERIFY

NOTE: ALL FLASHING AROUND WINDOWS & DOORS SHALL BE INSTALLED AS PER CODE TO PREVENT MOBILINE PENETRATION.

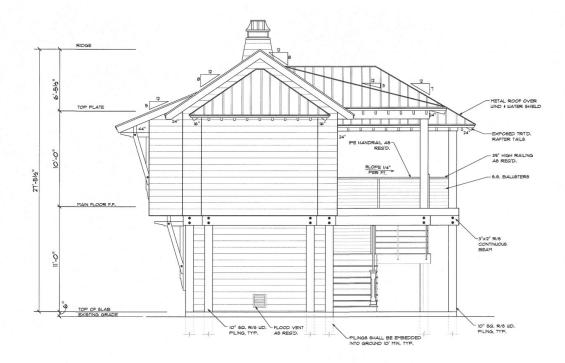
ALL ROOF FLASHING, SIDEWALL FLASHING, EAVE & OTHER REQUIRED. FLASHING, STSTEMS SHALL BE INSTALLED AS PER

NOTE: BUILDER SHALL INSTALL ADEQUATE ATTIC VENTILATION.

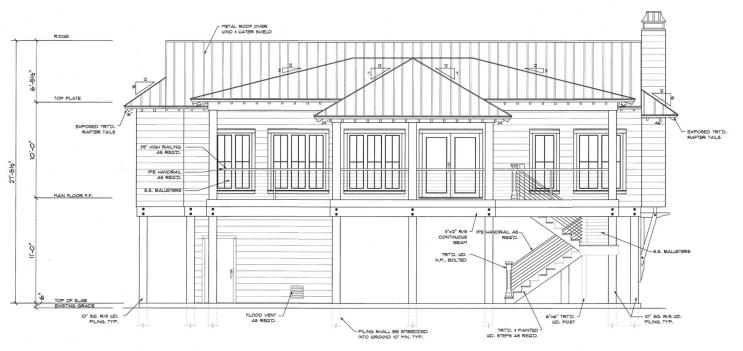
IF PERIMETER INSULATION IS USED BELOW

ROOF DECKING, I.e. OPENVCLOSED CELL INSULATION,
THEN ATTIC VENTILATION IS NOT REQUIRED.

NOTE: ALL EXTERIOR LIGHTING SHALL MEET ALL CODES & ORDINANCES



RIGHT ELEVATION



REAR ELEVATION

NOTE:

NOTE:

Grest, cire and affort have gone into the creation of the design, these plans. However, because of the impossibility of providing a personal endor'd non-the-site consultation and supervision over the actual construction, and because of the great verlance in local building code requirements, and other local building and easther conditions, designer seames no responsibility for any denegas, including structural failures, due to any deficiencies, omissions or errors in the design biseprints, or specifications. For soil section or errors in the design biseprints, or specifications. For soil section or errors in the design biseprints, or specifications. For soil section entering the design biseprints are specifications. For soil section continuous continuous

OTE

Contractor shall verify the accuracy of all dimensions, ceiling heights, beam and Joist designations, complying uith all code requirements, and the provisions for duct layouts, heating and air conditioning systems, and proposed electrical 4 plumbing layouts prior to commencement of

PATRICIA NIEMEYER AND ROB LITTLE LOT K, YOLANTA YIEW NO. 2 SUBDIVIS

PRELIMINARY PLANS: 05/2 PROGRESS SET: 06/11/21 FINAL REVIEW: 6/14/21

 $\begin{array}{c|c} \hline \textbf{CHATHAM HOME PLANNING} \\ \hline \textbf{BOBCHATHAM.COM} \\ \hline \textbf{Bobchatham.com} \\ \hline \textbf{Boil of the Pig.} \\ \hline \textbf{Boil of the Pig. Nurber.} \\ \hline \textbf{O4} \\ \hline \textbf{Pig. Nurber.} \\ \hline \end{tabular}$

O copyright 2020 CHATHAM HOME PLANNIN

