



**City of Fairhope  
Board of Adjustments Agenda  
5:00 PM  
Council Chambers  
May 15, 2023**

Sherry Sullivan  
*Mayor*

*Council Members*

Kevin G. Boone

Jack Burrell, ACMO

Jimmy Conyers

Corey Martin

Jay Robinson

Lisa A. Hanks, MMC  
*City Clerk*

Kimberly Creech  
*City Treasurer*

1. Call to Order
2. Approval of Minutes
  - April 17, 2023
3. Consideration of Agenda Items

**A. BOA 23.04** Public hearing to consider the request of the Owner, James Boothe, for a 10' variance to the front setback requirement for property zoned R-2, Medium Density Single-Family Residential District. The property is approximately 8,000 SF and is located near the corner of Orange Avenue and Satsuma Street.  
**PPIN#: 285254**

4. Old/New Business
5. Adjourn

161 North Section Street

P.O. Drawer 429

Fairhope, Alabama 36553

251-928-2136

251-928-6776 Fax

[www.fairhopeal.gov](http://www.fairhopeal.gov)

*Printed on recycled paper*

The Board of Adjustments met Monday, April 17, 2023, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle, Vice-Chair; Frank Lamia; Donna Cook; Ryan Baker; Hunter Simmons, Planning and Zoning Director; Michelle Melton, City Planner; and Cindy Beaudreau, Planning Clerk.

Chairman Vira called the meeting to order at 5:00 PM.

**Approval of Minutes**

Ryan Baker made a motion to approve the minutes from the December 19, 2022, meeting.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and Donna Cook.

Nay: None.

**Appointment of Board of Adjustments Secretary**

Cathy Slagle made a motion to appoint Cindy Beaudreau as the Board of Adjustments Secretary.

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

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, Ryan Baker, and Donna Cook.

Nay: None.

**BOA 23.01 Public hearing to consider the request of the Owner, Virginia Davis Parr, for a 10.5' variance to the rear setback requirement for property zoned R-2, Medium Density Single-Family Residential District. The property is approximately 8,500 sq. ft. and is located at 610 N. Mobile Street. PPIN #: 32193**

Hunter Simmons, Planning and Zoning Director, presented the case summary, showed an aerial of the property, and the site plan at the intersection of N. Mobile Street and Pensacola Avenue. This is a triangle shaped lot that has a front and a rear setback of 35' with N. Mobile being the front and Pensacola being the rear. This request meets all the requirements of a hardship. The request would allow for a 24.5' setback along Pensacola Avenue. Staff recommends approval of this request.

Chris Miller, CMC Contracting Services LLC, spoke on behalf of the owner. There is an existing home that sits on 2 lots, and in order to build a house that makes sense, they need the additional 10.5'. There will be 1 home built on each lot.

Ryan Baker asked why the owner did not request a 20' variance instead of the 10.5' variance? Mr. Miller stated that the owner and the City came to a compromise. They asked for only the amount that is needed.

Mr. Simmons explained that the City wanted the street frontage along Pensacola to be a consideration and with a triangle lot when looking at 8' fences and accessory buildings, this was a good median that accommodated those things without creating future problems.

Ryan asked about whether this lot would allow 8' fences and Mr. Simmons answered yes.

**Recommendation:**

Staff recommends approval of Case BOA 23.01.

Chairman Vira opened the public hearing at 5:08pm. Having no one present to speak, the public hearing was closed at 5:08pm.

**Motion:**

Frank Lamia made a motion to approve Case BOA 23.01.

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

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

Nay: None.

**BOA 23.02 Public hearing to consider the request of the Applicant, RW LLC/David Ryan, acting on behalf of the owner, FST Magnolia Church LLC, for a use not provided for. The property is zoned B-2, General Business District. The property is approximately .52 acres and is located at 301 Magnolia Avenue. PPIN #: 15164**

Michelle Melton, City Planner, presented the case summary, showed an aerial of the property, and the site plan. This case falls under a use not provided for. The project is a mixed-use development with seven separate structures. There is a dedicated 1200 sq. ft. retail/commercial component on the first floor of the two structures facing Magnolia Ave with one residential unit occupying the second and third floor of each structure. The remaining five structures will be single family dwelling units. The applicants took great strides to preserve the trees. It will have one ingress/egress along Magnolia Avenue. Staff recommends approval of this request.

Hunter Simmons, Planning and Zoning Director, spoke about the uses and how they create a problem with the Zoning Ordinance. There are multiple single family homes within this project. There was discussion of having multiple lots with individual ownership, but this was not the best choice. The Zoning Ordinance was recently amended to require the ground floors to have a minimum of 50% commercial space in a mixed-use building. There is a benefit to having common ownership of the greenspace areas. The goal is to save all of the trees and a lot of effort went into designing this project to save the trees to create the greenspace on the corner. Multiple single-family homes located on one lot is not a use allowed 'by right'. This project is being brought to the Board of Adjustments as a use not provided for because we may see something like this in the future that we do not agree with. We would need to make sure a future project meets the checklists for the Comprehensive Plan, that it meets the intent of the neighborhood, and how it contributes to the CBD. Mr. Simmons explained the mixed-use aspects of the project and, if approved by the BOA, would still need to go to the Planning Commission for an MOP and site plan and then to City Council for approval. Because this is not a defined type of project, it gives the City a review

procedure if we see something like this in the future. This project meets what the City is trying to accomplish and is happy to see a developer address these issues.

David Ryan, 7068 Trout Brook Avenue, explained that the project is in the Central Business District. It is important to him to save all the trees. When looking at the site plans, he showed where all the trees are located and designed a greenspace where people can walk their dogs along with keeping the corner attractive. The units facing Magnolia have a commercial look with over 50% of the first floors being commercial with residential units above it. When looking at the project from Church, a look was designed that complimented the neighborhood and the buildings are built to accommodate the varying elevations. He explained how the driveway will be shared by the residents, but each resident will have two parking spaces and space for a golf cart. Mr. Ryan shared packets with each of the board members. Mr. Simmons explained that the height of each building was considered, and the models follow the slope of the land. This is not covered in the City regulations, but there have been projects like this that have been taken to the Planning Commission and this is how the regulation was interpreted.

Cathy Slagle asked about parking for the commercial area. Mr. Ryan explained that there will be parallel parking along Magnolia for visitors but no dedicated parking for the commercial tenants and one spot may be lost on Magnolia. Ms. Slagle was also concerned about trash pick up and fire rescue vehicles being able to access the shared drive. Mr. Ryan explained that the width of the drive would accommodate the garbage truck and there will be no garbage cans on Magnolia. There is not room for the fire rescue vehicles to go on the drive. Mr. Simmons explained that those issues would be addressed during the permitting phase.

Ms. Slagle asked about the sizes of the units. Mr. Ryan continued by explaining the sizes of the units: Buildings 1 and 2 will be 3600 sq ft, Building 3 will be 3200 sq ft, Building 4 and 5 will be 2800 sq ft, and buildings 6 and 7 will be 2300 sq ft. The project was designed to work to accommodate a variety of residents. The height of the buildings on Magnolia are 40' and the other buildings are 35'. Each unit will have a covered and uncovered patio area.

Chairman Vira asked if this project would be a condominium like development and would the landscaping be done commonly. Mr. Lamia asked if an HOA would maintain the exterior. Mr. Ryan explained that this would be a condominium like project with an HOA that would maintain the landscaping and the common drive, but the residents would be responsible for the exterior of their home and bound by the HOA requirements.

Chairman Vira opened the public hearing at 5:38pm.

James Reid, 22757 Ecor Rouge Lane, explained that his property has a 13' drop in elevation and that Mr. Ryan had done a good job in designing the project so that it is attractive even with the elevation changes. He has no objections to the project.

Eugenia McCown, 52 N. Church Street, believes this is a beautiful project, a wonderful addition to the community and approves of the project. She also said she appreciated the tree preservation because she looks right at it.

The public hearing was closed at 5:40pm.

Ryan Baker also stated that this is a beautiful project. Mr. Baker also has the same concerns about the trash and fire rescue vehicles but believes a solution can be found to address those issues.

**Motion:**

Cathy Slagle made a motion to approve Case BOA 23.02 for the mixed-use development at 301 Magnolia Avenue.

Frank Lamia seconded the motion and the motion carried unanimously with the following vote:

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

Nay: None.

**Old/New Business**

Chairman Vira asked if there were any items for the next meeting. Mr. Simmons answered that there are two items.

**Adjournment**

Ryan Baker made a motion to adjourn.

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

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

Nay: None.

Adjourned at 5:42 p.m.

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Anil Vira, Chairman

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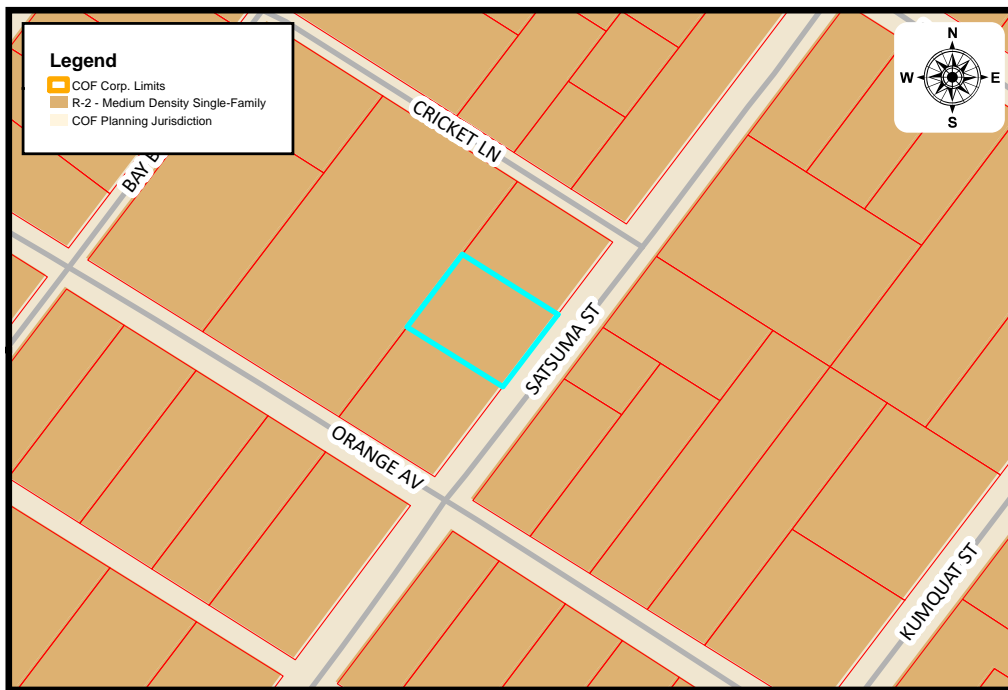
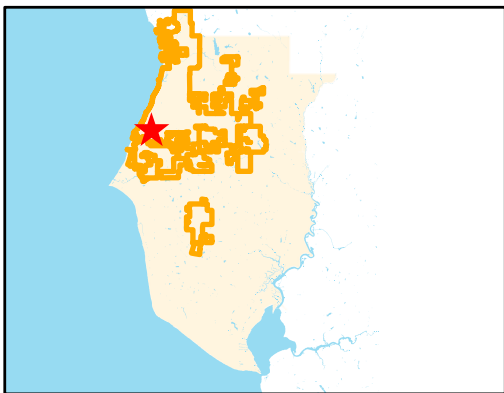
Cindy Beaudreau, Secretary

# City of Fairhope Board of Adjustment

May 15, 2023



## BOA 23.04 - Satsuma Street



**Project Name:**

Satsuma Street Variance

**Site Data:**

8,000 S.F. Lot

**Project Type:**

10ft Front Setback Variance

**Jurisdiction:**

Fairhope

**Zoning District:**

R-2

**PPIN Number:**

285254

**General Location:**

Vacant Lot on Satsuma Street, in between Orange Avenue & Cricket Lane

**Surveyor of Record:**

**Engineer of Record:**

**Owner / Developer:**

James Boothe

**School District:**

Fairhope Elementary School  
Fairhope Middle and High Schools

**Recommendation:**

Denial

**Prepared by:**

Michelle Melton







### APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type:  Administrative Appeal  Special Exception  Variance

**Property Owner / Leaseholder Information**

Name: JAMES BOOTHE Phone Number: \_\_\_\_\_  
 \*Street Address: PARCEL 46-03-37-0-011-151.001 PIN# 285254  
 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: JAMES BOOTHE Phone Number: \_\_\_\_\_  
 Street Address: 29951 SAINT BARBARA ST  
 City: DAPHNE State: AL Zip: 36526

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.

James D. Boothe, Jr James D. Boothe Jr  
 Property Owner/Leaseholder Printed Name Signature  
3/15/23 \_\_\_\_\_  
 Date Fairhope Single Tax Corp. (If Applicable)

\* THE PROPERTY IS A VACANT LOT WITH NO ADDRESS CURRENTLY ASSIGNED.



**VARIANCE REQUEST INFORMATION**

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

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

Describe the indicated conditions: THE LOT IS 80' WIDE X 100' DEEP. WHEN 35' FRONT AND REAR SETBACKS ARE APPLIED, THE HOUSE CAN ONLY BE 30 FT DEEP. THE HOUSES IMMEDIATELY NORTH AND SOUTH OF THIS LOT ARE CONSTRUCTED WITH A 25' A BUILDING FOOTPRINT OF 30 FT DEPTH GREATLY LIMITS THE SETBACK HOUSE DESIGN ALLOWED ON THIS LOT. ALSO GIVEN THE FACT THAT THE HOUSES ON EITHER SIDE ARE AT 25' SETBACKS, OUR HOUSE WOULD LOOK STRANGE SET BACK AN ADDITIONAL 10 FT.

How do the above indicated characteristics preclude reasonable use of your land?  
 What type of variance are you requesting (be as specific as possible)?  
WE REQUEST A VARIANCE FROM THE 35 FT FRONT SETBACK AND THAT WE BE ALLOWED TO CONSTRUCT OUR HOUSE AT A 25 FT FRONT SETBACK.

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

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

BOA Fee Calculation:	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
<b>TOTAL: \$</b>	<b>120</b>	

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.

James D. Boothe Jr  
 Property Owner/Leaseholder Printed Name  
3/15/23  
 Date

James D. Boothe Jr  
 Signature  
 Fairhope Single Tax Corp. (If Applicable)



**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 all structures	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' <sup>b</sup>	20'	40%	30' <sup>a</sup>
R-1a	40,000 s.f./ -	120'	30'	30'	10' <sup>b</sup>	20'	25%	35'
R-1b	30,000 s.f./ -	100'	30'	30'	10' <sup>b</sup>	20'	25%	35'
R-1c	20,000 s.f./ -	80'	30'	30'	10' <sup>b</sup>	20'	25%	35'
R-2	10,500 s.f./ -	75'	35'	35'	10' <sup>b</sup>	20'	37%	30' <sup>a</sup>
R-3	7,800 s.f./ -	65'	30'	35'	8' <sup>b</sup>	20'	35%	30'
R-3 PGH	4,000 s.f./ -	40'	20'	15'	10' <sup>b</sup>	10'	32.5%	30'
R-3 TH	2,400 s.f. <sup>j</sup> / -	24'	20'	35'	0' <sup>c</sup>	20'	45%	30'
R-4	10,500 s.f. for two dwelling units plus 6,500 s.f. for each additional unit/ 7 UPA	75' for two dwelling units plus 5' for each additional unit	30'	35'	10' <sup>b</sup>	20'	30%	30'
R-5	10,500 s.f. for two dwelling units plus 4,100 s.f. for each additional unit/ 10 UPA	75' for two dwelling units plus 5' for each additional unit	30'	35'	10' <sup>b</sup>	20'	30%	30'
R-6	2 acres with a max. of 5 acres <sup>i</sup> / -	250'	25'	20'	20' <sup>b</sup>	25'	N/A	30'
B-1	None/ -	none	20' <sup>d</sup>	20'	none <sup>c</sup>			30' <sup>l</sup>
B-2	None/ -	none	20' <sup>d</sup>	none <sup>f</sup>	none <sup>e</sup>			30' <sup>k,l</sup>
B-3a	7,500 s.f./ -	60'	30'	35'	10'		30%	30' <sup>l</sup>
B-3b	7,500 s.f./ -	60'	20'	20'	none <sup>c</sup>		none	30' <sup>l</sup>
B-4	None/ -	none	20'	20'	10'			30' <sup>l</sup>
M-1	None/ -	none	none <sup>g</sup>	none <sup>f</sup>	none <sup>e</sup>		none	45'
M-2	None/ -	none	none <sup>g</sup>	none <sup>h</sup>	none <sup>h</sup>		none	45'
PUD	See Article V., Section A.							
VRM	See Article VI., Section A.							
NVC	See Article VI., Section B.							
CVC	See Article VI., Section C.							
HTD	See Article V., Section I.							

- a. Structure may exceed the building height provided the lot width is increased by 10 feet for each additional foot in height.
- b. Where a driveway is in the side, and extends past the front of the principle structure, the side setback shall be 15'. Driveways shall not be within 3 feet of the side lot line. The area between the side lot line and driveway shall be vegetated and remain pervious.
- c. End units shall have a minimum side yard of 10'.
- d. Where a lot abuts residential property on both sides, the front setback shall be in line with adjacent structures.
- e. Where a lot abuts residential property, the side setback shall be 10'.
- f. Where a lot abuts residential property to the rear, the rear setback shall be 20'
- g. In the case of existing adjacent establishments, the setback shall be the average within 100 feet on either side of the proposed structure.
- h. Where a side or rear lot abuts residential districts, the setbacks shall be determined on an individual basis.
- i. R-6 Districts may be larger than 5 acres provided they meet all the special design requirements of Article V., Section D.5.
- j. Individual lots in the R-3 TH district may be as small as 2,400 square feet, however each unit must have a minimum of 3,600 square feet made up of lot area and common or public open space according to the standards in Article III, Section D.2.
- k. Central Business District 40'.
- l. A building located in any commercial zone may have a height of 35' if it contains both residential and commercial space. The residential use must make up at least 33% of the total area of the building and be located on the second and/or third floor and retail or office space must be located on ground and/or second floor. (See Site Plan Review Article II, Section C, Sub-section 2 – Site Plan, for approval procedures)

4. Board of Adjustments

- a. *Establishment and Authority:* The Board of Adjustment of the City of Fairhope, Alabama is hereby established according to the Code of Alabama (1975), as amended.
- b. *Membership:*
  - (1) The Board shall consist of five members, appointed by the City Council of the City of Fairhope, Alabama for overlapping terms of three years.
  - (2) The initial appointment of the Board shall be as follows: two members for one year; two members for two years; and one member for three years.
  - (3) Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the council upon written charges and after public hearing.
  - (4) No member shall hold any other public office or position.
  - (5) Every member shall reside in the city limits of the City of Fairhope, Alabama.
- c. *Rules of Procedure:* The Board shall observe the following procedures:
  - (1) The board shall adopt rules in accordance with the provisions of this ordinance for the conduct of its affairs.
  - (2) The board shall elect one of its members as chairman, who shall serve for one year or until he is reelected or his successor is elected.
  - (3) The board shall appoint a secretary.
  - (4) The meetings of the board shall be held at the call of the chairman and at other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena.
  - (5) All meetings of the board shall be open to the public.
  - (6) The board shall keep minutes of its proceedings, showing the voice vote of each member upon each question, or indicating absence or failure to vote, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the clerk and shall be a public record.
- d. *Duties and Powers:* The Board shall have the following duties and powers:
  - (1) *Administrative Review* - To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Director of Planning and Building, or other administrative official, in the enforcement of this ordinance.
  - (2) *Special Exceptions* - To hear and decide special exceptions to the terms of this ordinance upon which the board is required to pass under this ordinance.
  - (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.
  - (4) *Uses Not Provided For:* Whenever, in any district established under this ordinance, a use is neither specifically permitted or denied and an application is made by a property owner to the Director of Planning and Building for use, the Director shall refer the application to the board of adjustment which shall have the authority to permit the use or deny the use. The use may be permitted if it is similar to and compatible with permitted uses in the district and in no way is in conflict with the general purpose and intent of this ordinance.



**ORANGE AVENUE SUB  
SLIDE 2143-C**

**HUGGINS RESUB  
LOTS 16, 17 & 18**

153

151

151.001

152

150.001

150

149

148

147





ORANGE AVENUE SUB  
SLIDE 2143-C

CRICKET LN

60

60d  
58s

730

20

260

175

153

2

80

100

151

80

260

2

151.001

HUGGINS RESUB  
LOTS 16, 17 & 18

80

SATSUMA ST

85

120

150

12

139.4

100

152

3

100

55

150.001

60

120

60

11

180

85

60

ORANGE AVE

100

40

149

130

148

185

270

147

270

90

60

185

27



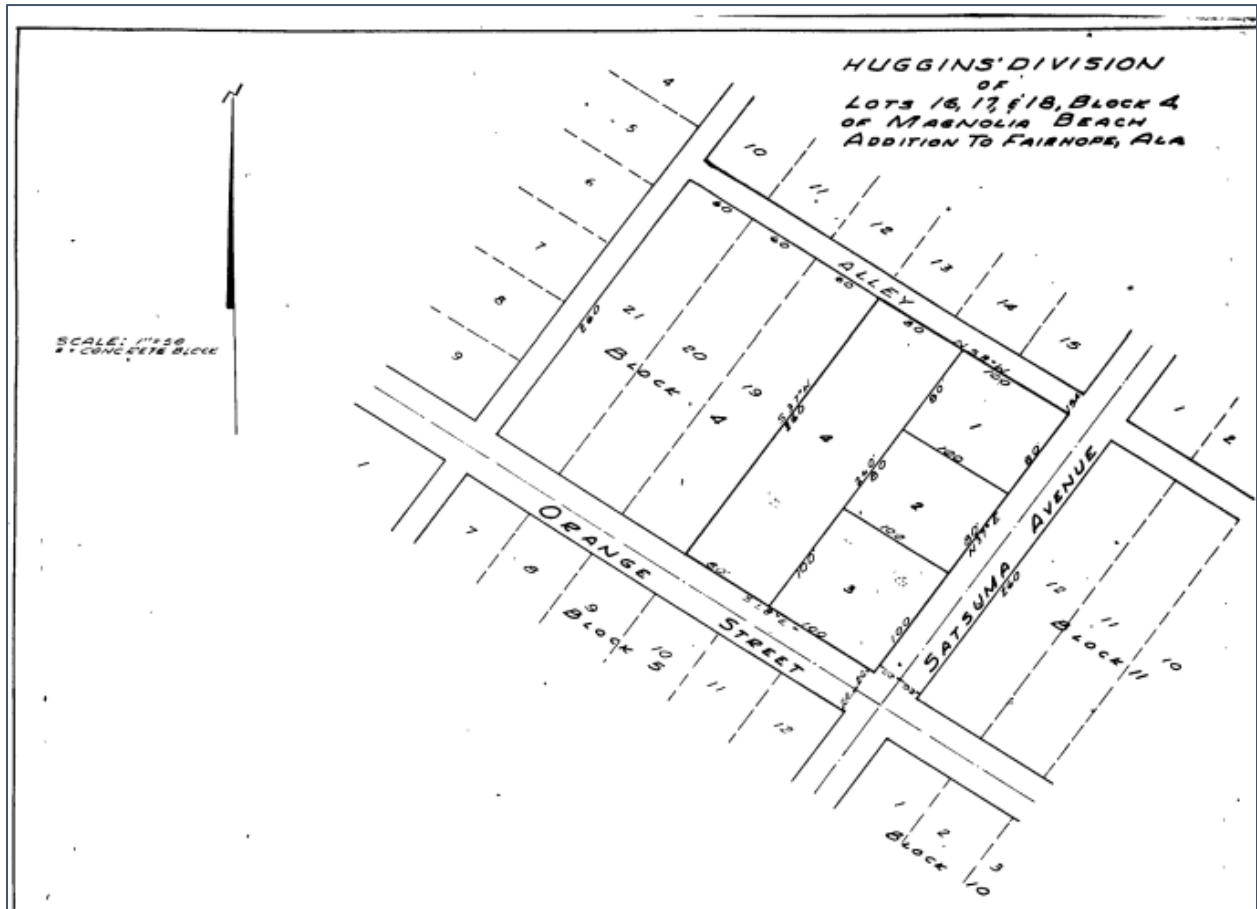
**Summary of Request:**

The applicant is requesting a front setback variance to the vacant lot on Satsuma Street between Orange Avenue and Cricket Lane. The subject property is located within an R-2 medium density single family zoning district, which requires 35' front and rear setbacks, 10' side setbacks, and 20' street side setbacks. R-2 lots are required to be at least 10,500ft<sup>2</sup> with a minimum width of 75'. The subject property, Lot 2 below, is 80'x100', so the lot itself is legal and non-conforming since it is shy of the 10,500ft<sup>2</sup> requirement. The specific request is a 10' front setback variance that would result in a 25' front setback as opposed to the required 35' front setback for R-2.

The survey provided indicated that the property directly adjacent to the north (Lot 1 of Huggins Division on Slide 398-A and located at 462 Satsuma Street) is approximately 24.7' from the front property line. The property identified as Lot 3 is situated facing Orange Avenue (31 Orange Avenue). The Satsuma side of Lot 3 is considered the street side. Nonetheless, the house on Lot 3 has a street side setback of approximately 25'.







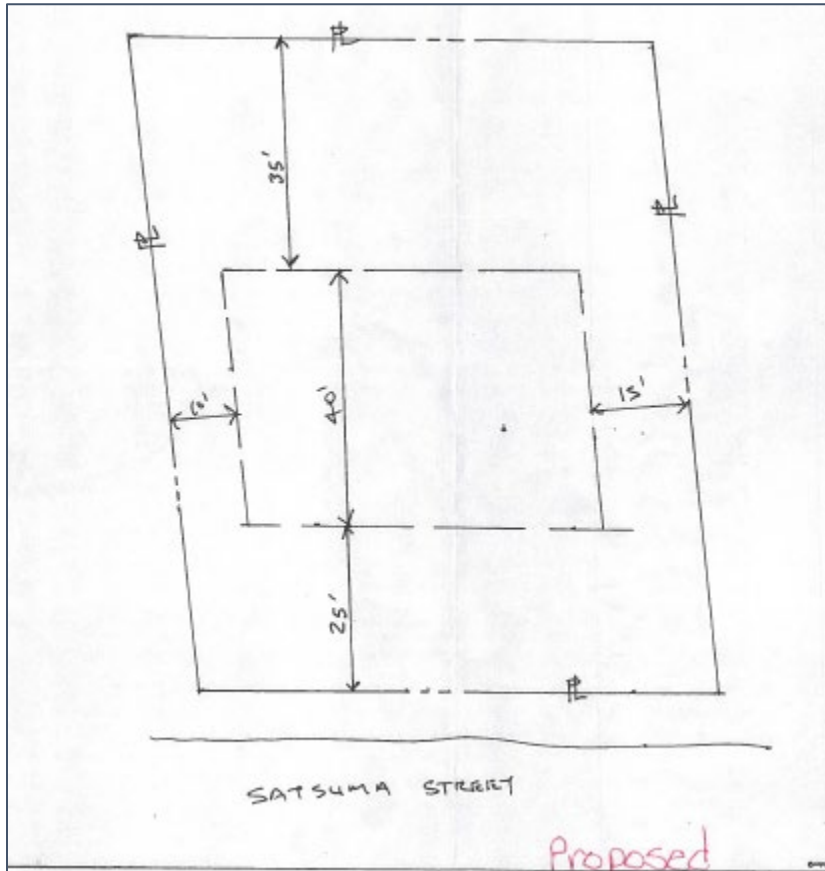
The Zoning Ordinance Article VII Section D.3 contemplates front setback relief of non-conforming lots. Staff granted an administrative variance of 5' for the front setback pursuant to Article VII, resulting in a front setback for the property of 30'. The administrative variance is calculated from the average of adjacent property frontages. As such, the applicant is currently requesting an additional 5' front street setback variance to have a 25' front setback.

**D. Non-conforming Lots**

Where a lot, tract or parcel of land has an area or width that does not conform to the requirements of the district in which it is located, the lot may be used for a detached single-family dwelling except in the M-1 and M-2 Industrial Districts. A single detached family dwelling may be constructed in an R-1, R-2, R-3, R-4, or R-5 Residential District provided the lot to be so used has a minimum area of four thousand (4,000) square feet and a minimum lot width at the building line of forty (40) feet, provided it is located on a public sewer.

3. The minimum front setback required for the district (and, on corner lots, the street side setback) shall not apply to any lot where the average front building line(s) of the adjacent lot(s), is less than the minimum setback required for the district. In such cases, the front building line may be the same as the average front building lines(s) of the adjacent lot(s). In no case, shall the front building line be more than 5' less than the minimum setback required for the district.

The applicant has stated that the intent behind the variance is to be able to construct a house that is 40' deep because the current applicable setbacks limit the building footprint to a 30' deep structure. See proposed building footprint below.



### **History**

When these lots were platted and recorded for the Huggins Division in 1960 the applicable front and rear setbacks were 45'. In 2004, there was an administrative appeal for two (2) lots to be recognized on behalf of the landowner of Lot 1 (462 Satsuma). The two (2) lots were recognized as legal lots of record per the request; however, at the public hearing residents of 21 and 31 Orange Avenue expressed concerns about fill and drainage should houses be built on Lots 1 and 2. Not at issue for this case, but something to consider at time of permitting.

### **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:

Lot size is not an extraordinary or exceptional condition pertaining to this piece of property. Substandard R-2 lots are quite common within the City of Fairhope, especially in the Fruit and Nut section where the subject property is located. Also, front setback relief was already provided to the substandard lot through the administrative variance process.

The shape of the lot is rectangular. There are no inherent challenges due to shape.

A topographic survey was not submitted with the application. Lot 2 is relatively flat. There have not been any BOA requests pertaining to a variance due to the topography of any of the surrounding lots in the city records. Most of the found requests for the surrounding area (Orange Avenue, Satsuma Street, and Cricket Lane) were for street side variances or for accessory structure coverage. The subject property is 100 feet deep as are the other lots in the Huggins Division. Topography is not an extraordinary or exceptional condition with this piece of property.

***(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:

Application of the ordinance to this particular piece of property would not create an unnecessary hardship.

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

Response:

There are no peculiar characteristics inherent to this piece of property. The 'buildable area' of the site today is greater than when the lots were originally platted due to amendments to the City of Fairhope zoning ordinance over the past 63 years. It appears this property has always been intended for smaller homes than those on nearby lots.

***(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:

There would be no substantial detriment to the public good or impairment of the intent of the Zoning Ordinance by **denying** the additional 5' front setback variance request.

**Recommendation:**

Staff recommends **DENIAL** of the front setback variance request.

ts were made in accordance

Records, Unrecorded Deeds, Easements, or other instruments, the boundaries of said properties, attempt to determine the existence of any Sub-surface features, Tanks, Underground Utilities, Footings, etc. Distances shown hereon were "Computed".

Based on Grid North as established by the National Geodetic Survey, but not limited to Wet Lands, Fuel Tanks, etc. Wetlands Location if Shown on Survey

Based on the current FEMA maps, the Residence are exterior dimensions used for calculating square footage. Setbacks and Building location with reference to the property of Moore Surveying Inc. and is solely for the use of the Client and may not be used by a Third Party. Valid for 30 days from the date of survey. For any other purpose without prior written permission, contact Moore Surveying Inc., or Seth Moore.

Zoned R-2  
Setback Line

Slide 2143-C  
Avenue Subdivision

LOT 3

LOT 2

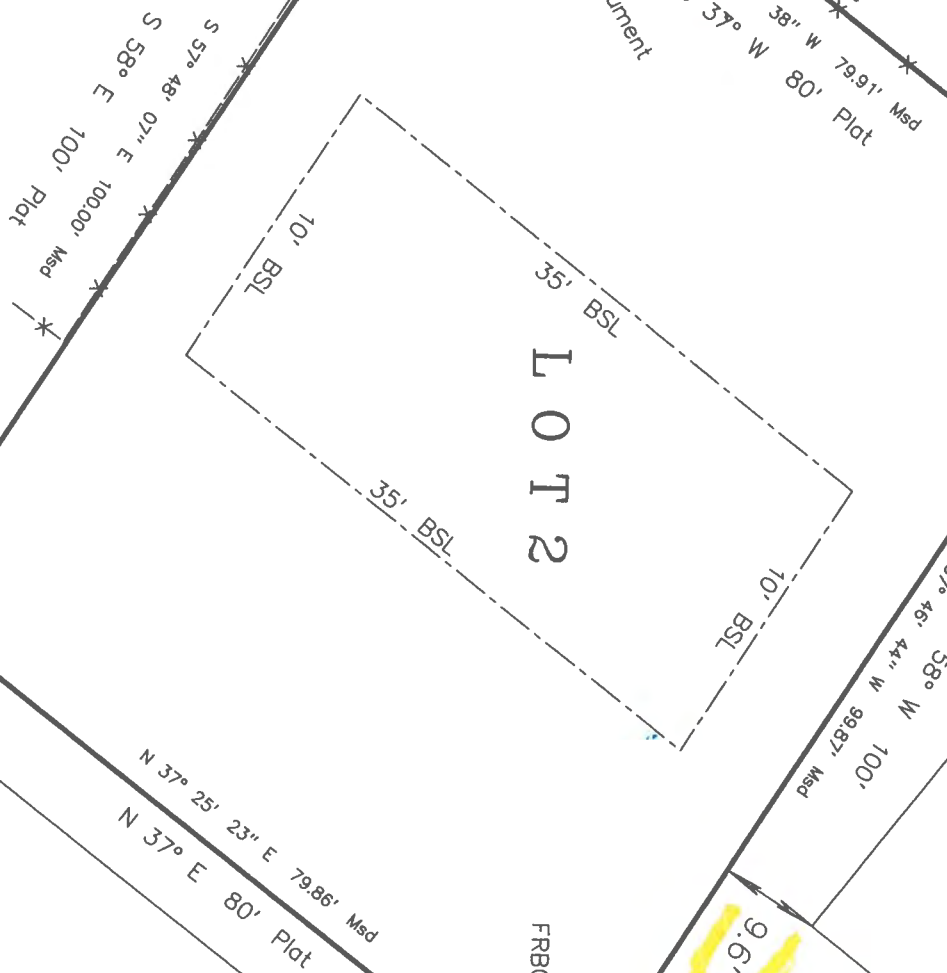
LOT 1

RESIDENCE  
462 Satsuma

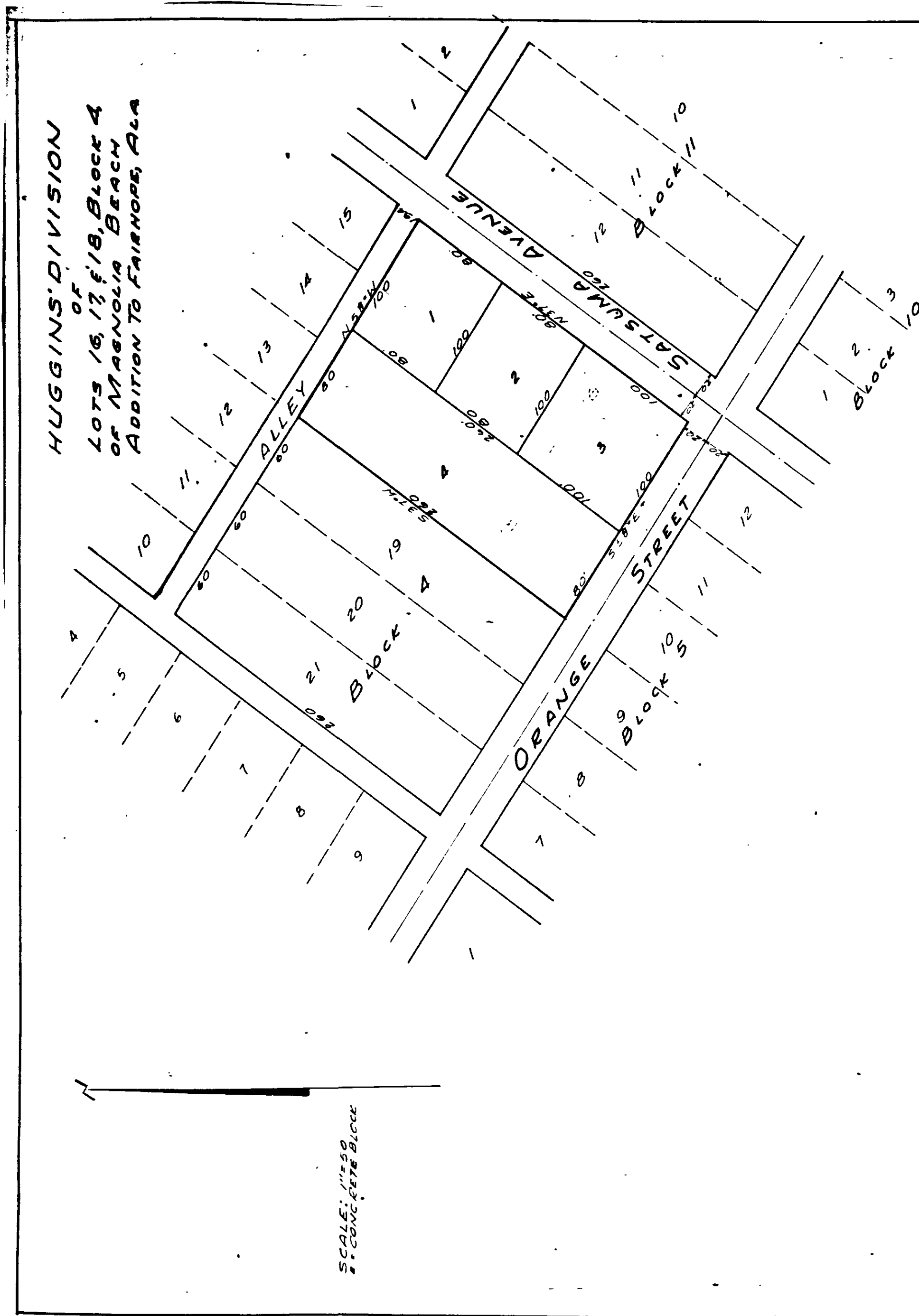
20' Alley

SATSUMA STREET

Existing  
40' Right-of-way Paved Street



NOTION:  
SINGNS DIVISION OF Lots 16, 17, 18, 19, 20, 21, 22, 23, 24, of Magnolia Beach Addition, Alabama as recorded in Map Book 5, (Page 389-A) in the Judge of Probate, Baldwin County, Alabama.



STATE OF ALABAMA  
BALDWIN COUNTY  
I, CLAUDE W. ARNOLD, HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT MAP OR PLAN OF MY SURVEY AND DIVISION OF LOTS 16, 17, 18, BLOCK 4, OF MAGNOLIA BEACH ADDITION TO THE TOWN OF FAIRHOPE, ACCORDING TO MAP THEREOF RECORDED IN MISC. BOOK NO. 1 AT PAGES 530-531, PROMOTE RECORDS, BALDWIN COUNTY, ALABAMA AS SURVEYED & SUBDIVIDED AT THE REQUEST AND UNDER THE DIRECTIONS OF THE OWNERS JAMES W. & OTTILIA W. HUGGINS, HUSBAND AND WIFE.  
WITNESS MY HAND THIS 11th DAY OF October, A.D. 1960  
Claude W. Arnold

C.E.F.L. 5 A/18 REG W/276

STATE OF ALABAMA  
BALDWIN COUNTY  
WE, JAMES W. & OTTILIA W. HUGGINS, HUSBAND AND WIFE, OWNERS OF THE ABOVE PLATTED PROPERTY, HEREBY CERTIFY THAT WE ARE THE OWNERS THEREOF, AND THAT WE HAVE CAUSED THE SAME TO BE SURVEYED & SUBDIVIDED, AND DO HEREBY ACCEPT THE ABOVE AS A TRUE AND CORRECT MAP OF THE SUBDIVISION OF OUR LANDS.  
WITNESS OUR HANDS THIS 11th DAY OF October, A.D. 1960  
James W. Huggins  
Ottilia W. Huggins, Owner

STATE OF ALABAMA  
BALDWIN COUNTY  
I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS RECORDED IN THE PUBLIC RECORDS OF SAID COUNTY.  
NOV 10 1960 2 105  
J. H. Arnold  
Clerk

STATE OF ALABAMA  
BALDWIN COUNTY  
I, J. H. ARNOLD, A Notary Public in and for said State and County, HEREBY CERTIFY THAT THE WITHIN NAMED JAMES W. AND OTTILIA W. HUGGINS, HUSBAND AND WIFE, WHOSE NAMES ARE SIGNED TO FOREGOING OWNERS ACCEPTANCE, AND WHO ARE KNOWN TO ME AND KNOWN TO BE SO, ON THIS DAY THAT BEING INFORMED OF THE CONTENTS OF THE SAID OWNERS ACCEPTANCE, THEY EXECUTED THE SAME VOLUNTARILY ON THE DAY THE SAME BEARS DATE.  
WITNESS MY HAND AND OFFICIAL SEAL THIS 11th DAY OF October, A.D. 1960  
J. H. Arnold  
Notary Public Baldwin Co. Ala

STATE OF ALABAMA  
BALDWIN COUNTY  
THE WITHIN SUBDIVISION APPROVED BY THE FAIRHOPE CITY PLANNING COMMISSION THIS THE 11th DAY OF NOVEMBER A.D. 1960  
Secretary Fairhope City Planning Commission

Reduced by 10% of Original



JUDGE OF PROBATE

I hereby certify that this instrument was filed for record on Slide \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Judge of Probate Baldwin County, Alabama

S-21430

State of Alabama, Baldwin County I certify this instrument was filed and taxes collected on: 2004 February -13 12:46PM Instrument Number 798218 Page 1 Record 15.00 Mortgage Book 1 Page 125

OWNER'S CERTIFICATE OF ACCEPTANCE

STATE OF ALABAMA ) COUNTY OF BALDWIN ) This is to certify that I, the undersigned do hereby certify that I am the Owner of the within platted and described lands and that I have caused the same to be surveyed and subdivided as indicated hereon, for the uses and purposes herein set forth and do hereby acknowledge and adopt the same under the design and title hereon indicated.

By: [Signature] Date: \_\_\_\_\_

NOTARY PUBLIC

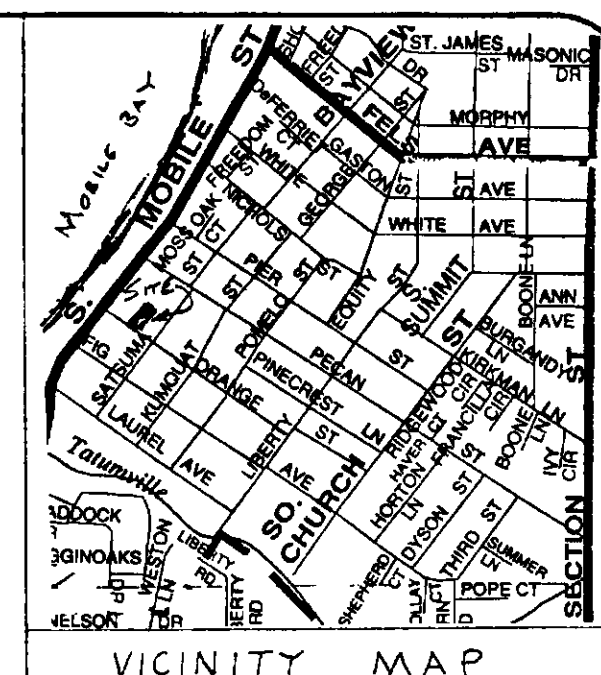
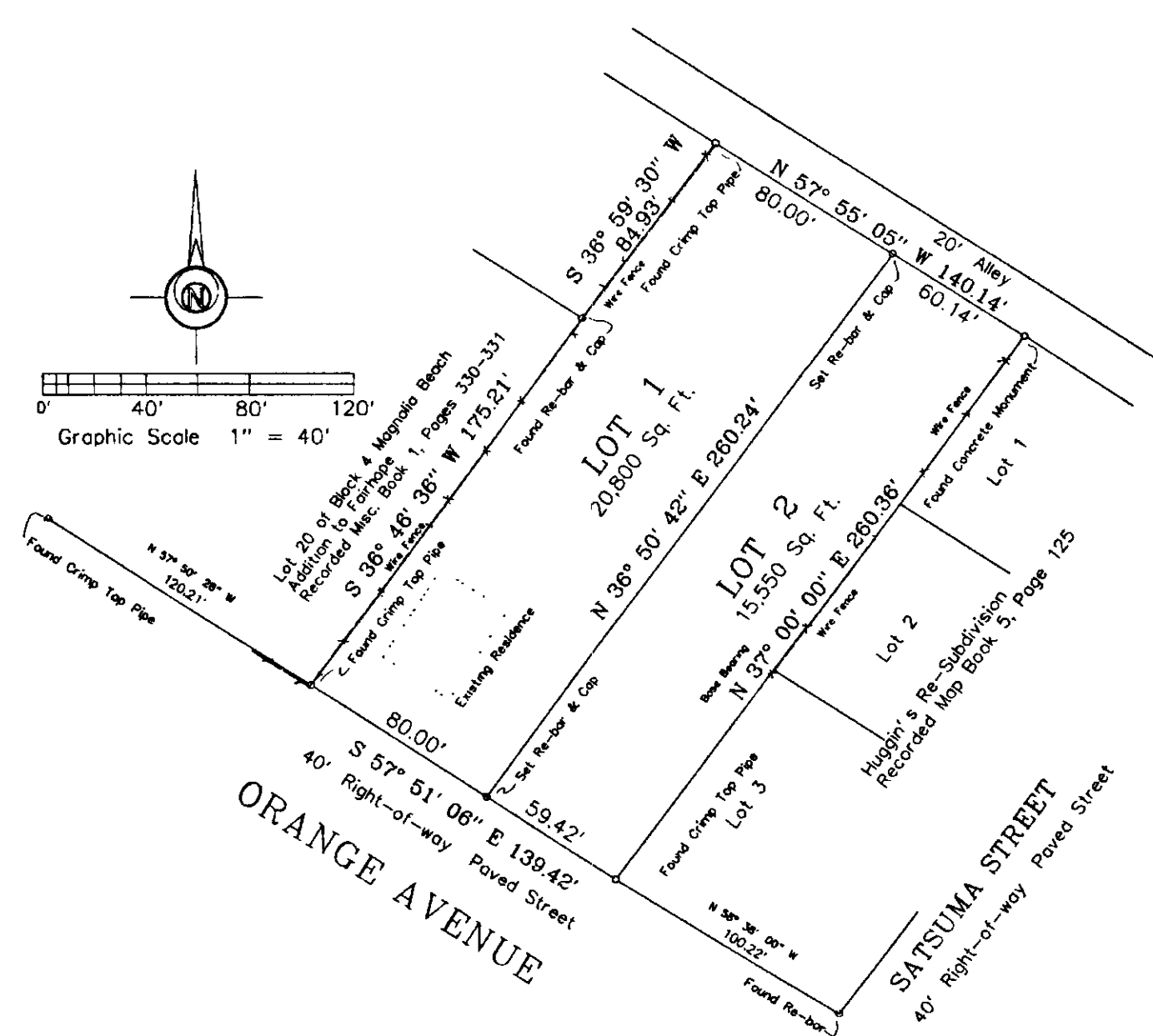
I, [Signature], a Notary Public, in and for said State and County, do hereby certify that the above name signed to the within OWNER ACCEPTANCE and who is known to me, that they voluntarily executed said ACCEPTANCE on this date.

My Commission Expires: [Date]

FAIRHOPE PLANNING COMMISSION

We, the PLANNING AND ZONING COMMISSION of the CITY OF FAIRHOPE, ALABAMA, do hereby approve the within Subdivision on this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

PLANNING AND ZONING COMMISSION OF THE CITY OF FAIRHOPE, ALABAMA [Signature]



- SURVEYOR'S NOTES: 1. All Measurements were made in accordance with U.S. Standards. 2. Description as furnished by Client. 3. There may be recorded or unrecorded Deeds, Easements, Right-of-ways, or other instruments that could affect the boundaries of said properties. 4. There was no attempt to determine the existence, location or extent of any sub-surface features such as Septic Tanks, Fuel Tanks, etc. 5. Bearings and Distances shown hereon were "Computed" from actual field traverses. 6. The Basis of Bearings for this Survey is based on North 37° 00' East, along the East property line. 7. We did not locate any Environmental issues such as but not limited to Wet lands, etc. 8. Subject property Zoned R-2 9. This is a 2-lot Subdivision. 10. Utilities are existing.

SURVEYOR'S CERTIFICATE COUNTY OF BALDWIN STATE OF ALABAMA I, Seth W. Moore, a registered land surveyor, hereby state that all parts of this survey and drawing have been completed in accordance with the requirements by the Standards of Practice for Land Surveying in the State of Alabama to the best of my knowledge, information and belief, this is a true and correct map of the following description. Lot 19, Block 4 of MAGNOLIA BEACH Addition to Fairhope, Alabama, as per its plat recorded in Miscellaneous Book 1, Page 331 in the Judge of Probate's Office, Baldwin County, Alabama, AND Lot 4 of Huggins' Division as per its plat recorded in Map Book 5, Page 125 in the Judge of Probate's Office, Baldwin County, Alabama I further state that the improvements presently situated on said property are located within the boundaries thereof; that there are no encroachments upon said property by buildings or fences situated on adjoining property; and that there are no joint driveways, easements, nor rights-of-way visible on the surface, except as noted hereon. All according to my survey made this the 9th day of February, 2004. I also state that I have examined the current FIA Official Flood Hazard Map, Community Number 010006, Panel Number 0518 K, and found referenced lot above lies in Flood Zone X, Map Dated June 17, 2002. I also state that this drawing and/or certification does not reflect any title or easement research, other than what is visible on the ground or provided by the clients at time of survey.

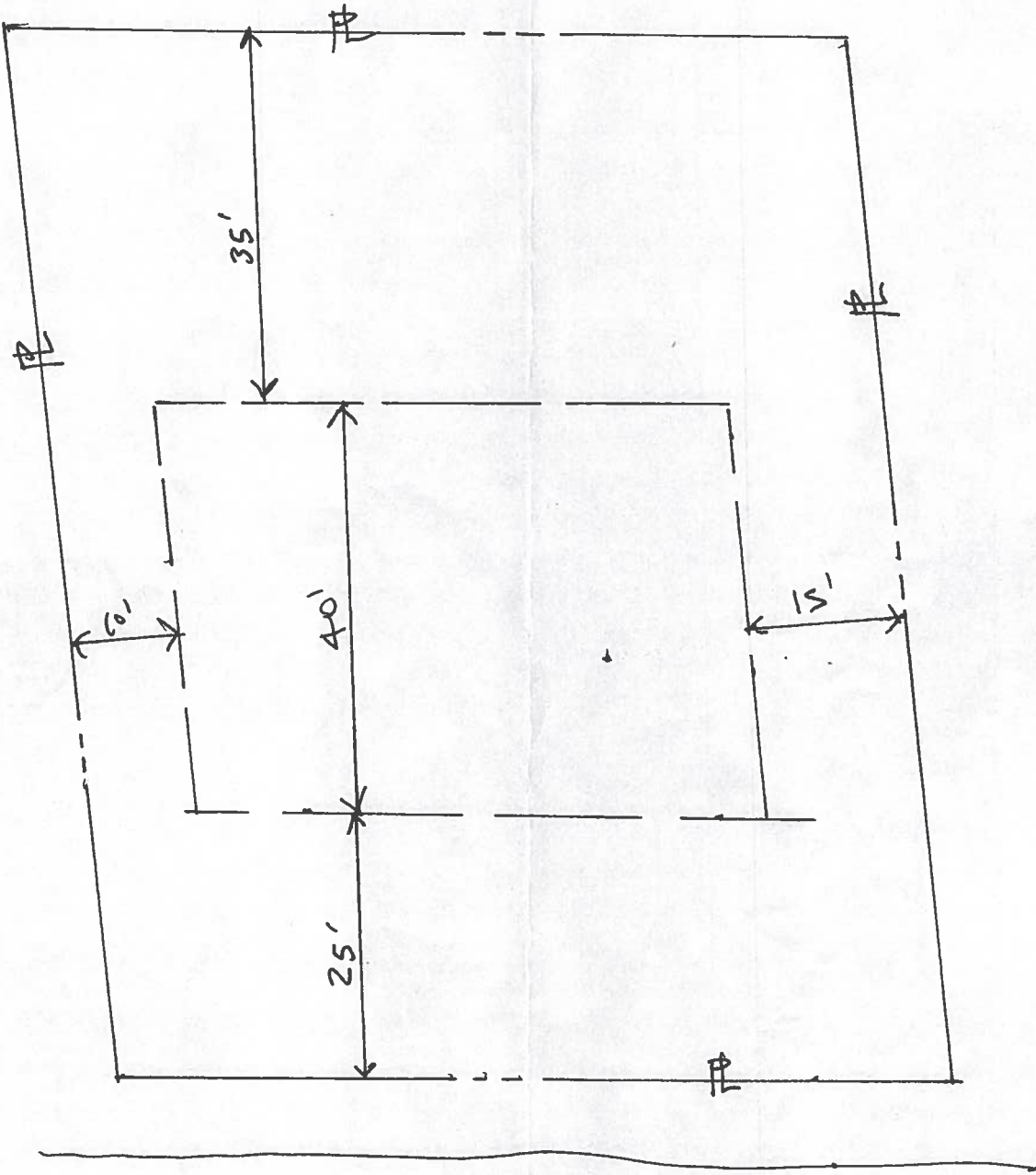
[Signature] S.W. Moore, P.L.S. Ala. Reg. No. 16671

MOORE SURVEYING, INC. PROFESSIONAL LAND SURVEYING 555 NORTH SECTION STREET, FAIRHOPE, ALABAMA 36532 PHONE (251) 928 - 6777 FAX (251) 990 - 6070

Professional seal and title block containing 'ALABAMA REGISTERED PROFESSIONAL LAND SURVEYOR' and a table with fields: DRAWN BY, DATE, JOB NUMBER, FIELD WORK, SHEET, SCALE.

ORANGE AVENUE SUBDIVISION IN FAIRHOPE, ALABAMA

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SATSUMA STREET

Proposed

CHATHAM HOME PLANNING	
BOBCHATHAM.COM	
Date :	Drawn By :
Scale :	Sheet Number :
Plan Number :	

chp

© copyright 2023 CHATHAM HOME PLANNING

**From:** [Andy Parvin](#)  
**To:** [planning](#)  
**Subject:** BOA 23.04  
**Date:** Tuesday, May 2, 2023 1:59:04 PM

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Board of Adjustors:

I am writing to ask that you deny this variance. The northbound lot, 462 Satsuma Street, has an existing house that is set back 35 feet from the street per code. I took a tape measure and measured from the street to the plantings in front of the house. If you grant this variance then the Boothe house will jut out 10 feet in front of 462. A very bad look for our neighborhood.

Three years ago we built a new house around the corner at 104 Pecan. If we were 10 feet closer to the street then we could have added a garage in the back of our lot. We respect the zoning that Fairhope has implemented and did not even consider asking for special dispensation. We are very happy that Fairhope has strict zoning regulations. If this variance is granted it will set a very bad precedent. Other new builders/petitioners will ask for the same variance and use BOA 23.04 as part of their justification for getting their variance approved (and slowly but surely there goes the neighborhood).

Please deny this application for a variance.

Sincerely,

*Andy Parvin*

Andy Parvin  
[andy.parvin@outlook.com](mailto:andy.parvin@outlook.com)  
404-906-8346 (mobile)

**From:** [jacobson86@aol.com](mailto:jacobson86@aol.com)  
**To:** [planning](#)  
**Subject:** Request: 10" Setback Variance, Case: BOA 23.04  
**Date:** Tuesday, May 2, 2023 4:04:59 PM

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Ms. Cindy Beaudreau  
Planning and Zoning Department  
City of Fairhope

Dear Ms. Beaudreau

This email is a response to the request made by James Boothe (owner), who is asking for a 10 foot variance to the street side setback requirements for the property located near the corner of Orange Avenue and Satsuma Street (BOA 23.04).

Both my wife and I are opposed to the request. We feel the established setback is necessary to keep the consistency of the neighborhood area aesthetics. For various reasons there are two homes that show a lack of compliance with the established setback on our street. As legal as that is, it has taken away from the visual balance of our neighborhood where the houses exist. This request shows no consideration for the neighborhood community and its visual aesthetics. We are a community and the property owner is not sensitive to the visual aesthetics of the community. It is only when one complies with the established setback does one demonstrate a consideration for the whole community.

How can one (the Board of Adjustment) allow a request for a variance on an established setback and not allow others the same request of a setback variance? I am sure others must have requested such a variance at one time or another and had been denied. This request to ask for a variance to the established setback is a "loophole" to the set rule at hand. If you allow this request, then you may as well throw out the rule, so others who request a variance can do so as they wish...without any consideration for the community. We are very happy that Fairhope has strict zoning regulations. Again, complying to the rule of the established setback is the only way one demonstrates consideration for the neighborhood community.

Please deny this request for variance.

Thank you for your time.

Respectfully Yours,

Dennis Jacobson  
100 Pecan Ave.  
Fairhope, AL 36532  
[jacobson86@aol.com](mailto:jacobson86@aol.com)

**From:** [Ronald Mitchell](#)  
**To:** [planning](#)  
**Subject:** Fwd: Case: BOA23.04. James Boothe  
**Date:** Friday, May 5, 2023 5:44:26 AM

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Sent from my iPhone

Begin forwarded message:

**From:** Ronald Mitchell <[rmitch707@hotmail.com](mailto:rmitch707@hotmail.com)>  
**Date:** May 5, 2023 at 5:39:39 AM CDT  
**To:** [planning@fairhope.gov](mailto:planning@fairhope.gov)  
**Subject:** Case: BOA23.04. James Boothe

My name is Ronald Mitchell , 31 Orange avenue (Corner of Orange Ave. and Satsuma Street. This lot is adjacent to my property and I have no objection to the 10-foot variance to the front of the property.

Ronald Mitchell  
31 Orange Ave.  
Fairhope Al. 36532  
251-5839434  
[Rmitch707@hotmail.com](mailto:Rmitch707@hotmail.com)

Ronald Mitchell  
Sent from my iPad



**From:** [stewschu@aol.com](mailto:stewschu@aol.com)  
**To:** [Cindy Beaudreau](#)  
**Subject:** Re: Variance request James Boothe  
**Date:** Monday, May 8, 2023 1:01:54 PM

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Ms. Beaudreau:

I have learned that the set back was requested to keep the proposed building in alignment with the next house. I do not object to this proposed variance only if the house and/or garage square footage would not exceed the original footprint of the buildable portion if there were no variance granted. If the extra 10 feet is used for buildings, we object. Properties West of this locale are now included in the new flood plain guidelines, that should be taken into consideration for any permits issued in this neighborhood.

Mary Ellen Stewart

----Original Message-----

From: Cindy Beaudreau <cynthia.beaudreau@fairhopeal.gov>  
To: stewschu@aol.com <stewschu@aol.com>; planning <planning@fairhopeal.gov>  
Sent: Mon, May 8, 2023 6:56 am  
Subject: RE: Variance request James Boothe

Good morning Ms. Stewart,

I am in receipt of your e-mail.

---

**From:** stewschu@aol.com <stewschu@aol.com>  
**Sent:** Friday, May 5, 2023 3:12 PM  
**To:** planning <planning@fairhopeal.gov>  
**Subject:** Variance request James Boothe

**Having been notified of the variance request, it is unfortunate that we have been provided with little information of exact location, what set backs should be, and nothing more to ascertain the proposed size of a building as this has great impact on our ability to make informed decisions. If as an adjoining property, why are we the ones to be burdened with digging all this information out, this is a terribly lopsided way of doing permitting. Is there supposed to be a sign posted at the location?**

**We will not be in town on May 15 to attend a meeting as we are out of State. My concern with any building in this neighborhood is that we are at the bottom of the entire hill sloping towards the Bay from Summit Avenue, all water will be diverted around additional structures to the detriment of us downhill. Is this property going to have a mega garage that requires the set back making the lot yet another multi family with a pseudo mother in law apartment? Two roofs? We object to this variance because we know nothing until provided adequate information.**

**Mary Ellen Stewart  
8 Bay Breeze Lane  
608 399 44r4**