

**The City of Fairhope Board of Adjustments and Appeals met on Monday, September 15, 2014 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.**

**Members Present: Chairperson Cathy Slagle; Anil Vira, Vice-Chair; Troy Strunk; John Avent; Ray Clark; Dick Schneider; Jonathan Smith, Director of Planning; Emily Boyett, Secretary.**

**Absent: none**

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

The minutes of the July 21, 2014 meeting were considered. Ray Clark moved to accept the minutes as written and was 2<sup>nd</sup> by Anil Vira. Motion carried unanimously.

Ray Clark stated he has a conflict of interest and recused himself from this case. Mr. Schneider was present and took his seat on the Board.

**BOA 14.05 Request of HMR, LLC for front and street side setback variances for property located at 110 Pecan Avenue.**

Jonathan Smith, Director of Planning came forward and gave the staff report.

**STAFF INTERPRETATION:**

The subject property is zoned R-2 (Medium Density Single Family Residential District). The applicant is seeking a variance to the provisions of Table 3-2: Dimension Table – Lots and Principle Structure in the Fairhope Zoning Ordinance.

Table 3-2 requires that all principle structures in the R-2 zoning district on a corner lot adhere to a minimum front-yard setback of 35' and street side setback of 20'. The applicant would like to reduce the front yard setback to 10' and the street side setback to 8' in order to prevent a house being constructed in a "drainage channel". The subject property is technically a corner lot, but the Kumquat right-of-way on the east side of the property is unopened and wooded; therefore, the lot appears to be an interior lot that would not require a 20' street side setback. Ten feet is required for interior R-2 lots.

A boundary survey and topographic map provided by the applicant shows the lot dimensions and topography. The "Existing Structure" show on the map has been removed, but the applicant would like to build back to similar dimensions. The structure that was removed was approximately 1,820± square feet.

According to the topographic map and a visual inspection of the property, there does appear to be a significant drainage channel that flows through the middle of the subject property.

As indicated by the applicant, the property just west of the subject lot appears to only have a front setback of approximately 8 to 12'.

The property is bordered on all sides by City of Fairhope R-2 zoned properties.

Facts to be considered in this case:

1. Per the opinion of the City of Fairhope Planning Staff, this variance application meets all of the established Zoning Ordinance criteria for the issuance of a variance.
2. The applicant is requesting a 25' front setback variance and a 12' street side variance.
3. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography, due to the "drainage channel" that flows through the middle of the property (topography).

**STAFF RECOMMENDATION:**

The application meets the mandatory criteria established in the Zoning Ordinance for the issuance of a variance. Due to the property's topographic conditions, staff recommends the Board of Adjustment approve the 25' front yard setback variance and 12' street side setback variance.

Mr. Smith stated the house to the west of the subject property was also positioned to avoid the drainage area. He also added the Kumquat right-of-way is unopened due to the amount of water in this area.

Scott Hutchinson of HMR, LLC addressed the Board and he provided a letter stating a house should not be constructed in the middle of the subject parcel. He explained it was calculated approximately 60 acres contribute to the water flowing across the subject property. Mr. Avent asked if the FFE is for a 100 year flood and if the water is ever higher than the road. Mr. Hutchinson said he did not know. Mr. Schneider said if the City would vacate the right-of-way then a variance would not be required. Mr. Smith responded the City Council would have to approve the right-of-way vacation and he is not sure they would because the area may be needed for drainage.

Paul Altermatt address the Board saying the neighbors to the east investigated the possibility of vacating the right-of-way and the City was not interested.

Mrs. Slagle opened the public hearing.

Ray Clark of 108 Old Mill Road stated he is the draftsman for the plans and the owners want a small cottage and something similar to the previous structure.

Having no one else present to speak, Mrs. Slagle closed the public hearing.

Mr. Strunk asked if the rip-rap and proposed improvements would be permanent and Mr. Hutchinson responded yes, that is the plan. Mr. Vira stated all of the other houses on the street are set back and he asked how that will affect the streetscape. Mr. Smith asked if the house will be 1 or 2 story and Mr. Clark responded 1 ½ with a footprint of approximately 1800 to 1900 square feet. Mr. Smith stated the streetscape will not be visibly off. He explained the City used to allow the houses to line up with existing structures but now we calculate the distances of the houses within 200' and use the average. Mr. Schneider stated the lot to the east is vacant and he asked what the setback will be for it. Mr. Smith stated the two lots are not comparable. Troy Strunk made a motion to accept the staff recommendation to approve the 25' front yard setback variance and

12' street side setback variance due to the property's topography and the presence of a drainage channel. Anil Vira 2<sup>nd</sup> the motion and the motion carried unanimously.

Having no further business, Anil Vira made a motion to adjourn. Troy Strunk 2<sup>nd</sup> the motion and the motion carried unanimously. The meeting was adjourned at 5:21 PM