

**The City of Fairhope Board of Adjustments and Appeals met on Monday, September 21, 2015 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; Dick Schneider; Ray Clark; John Avent; Jonathan Smith, Director of Planning and Zoning; Emily Boyett, Secretary.**

**Absent: Troy Strunk**

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

The minutes of the July 20, 2015 meeting were considered. Anil Vira moved to accept the minutes as written and was 2<sup>nd</sup> by John Avent. Motion carried with two abstentions by Dick Schneider and Ray Clark.

Ray Clark stated he has a conflict with the first case. He explained the applicant has hired him to do a home plan for the referenced property. He recused himself from the case.

**BOA 15.05 Public hearing to consider the request of Julie Seidell for a street side setback variance for an accessory structure on property located at 451 Pomelo Street.**

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

**STAFF INTERPRETATION:**

The subject property is zoned R-2 Medium Density Single Family Residential District. The applicant would like an 8' variance to the required 20' street side setback for an approximate 576 square foot accessory structure. They are requesting a 12' street side setback along the Pomelo Street side for their proposed accessory structure, a detached garage.

If the property was not irregularly shaped, the allowable accessory structure square footage would be approximately 875 square feet and that structure could be built within the required setback area. Due to the odd shape of the lot, the applicant is seeking this variance.

There is a gully in the rear of the lot also, which contributes to the configuration of the accessory structure. As you will notice, they are 10' of the 39' rear property line, where they could build 5' off the rear property line. This is proposed in an effort to provide a stable building surface as far away from the gully as possible to prevent destabilization due to erosion issues.

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

Facts to be considered in this case:

1. The subject property is irregularly shaped, which appears to inhibit the applicants ability to build an accessory structure similar to what could be built on a standard rectangular shaped R-2 lot.
2. Staff feels that a hardship exists due to the shape of the subject property and the existence of the gully behind the lot.

**STAFF RECOMMENDATION:**

Staff recommends the Board of Adjustment approve the subject 8' street side yard setback variance, due to the irregular shape of the subject property and to allow the buildable area for the structure to be as far away from the gully as possible. The accessory structure shall be no taller than the existing principal structure.

Ms. Seidell was present to answer any questions.

Mrs. Slagle opened the public hearing. Having no one present to speak, she closed the public hearing. John Avent made a motion to accept the staff recommendation to approve an 8' street side yard setback variance due to the irregular shape of the property and to allow the buildable are for the structure to be as far away form the gully as possible. Dick Schneider 2<sup>nd</sup> the motion and the motion carried unanimously.

**BOA 15.06 Public hearing to consider the request of Doris Mitchell for a height variance for the principle structure on property located at 107 North Avenue.**

Mr. Smith came forward and gave the staff report.

**STAFF INTERPRETATION:**

The R-2 zoning district requires a maximum building height of 30'. The applicant is requesting a two and one half foot variance to the current legal non-conforming building height of approximately 31'. The total building height proposed is approximately 33.5'. The variance request is due to the current roof being a flat roof that is and has been causing significant damage to the residence, per the applicant. The small slope proposed appears to allow for better drainage runoff from the roof in order to remedy the issues caused by the flat roof.

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

Facts to be considered in this case:

1. The existing flat roof appears to be causing damage to the home on the subject property.

2. The existing structure is a physical condition associated with the property and is a legal non-conforming structure.

**STAFF RECOMMENDATION:**

Staff recommends the board consider the 2.5' height variance for the subject property, due to the existence of the legal non-conforming home being a physical condition on the lot.

Barbara and Keys Mitchell were present on behalf of the applicant. Mr. Mitchell explained his mother is 92 years old and is sick. He said the flat roof has a central drain and the leaves from the trees prevent it from draining. He said there is termite damage and they received a settlement to fix it. He stated the proposed new metal roof will eliminated the issues they are having. He added the proposed roof will not impair the view of the neighbors. The applicant's contractor was also present.

Mrs. Slagle opened the public hearing. Having no one present to speak, she closed the public hearing. Mr. Clark asked what pitch the proposed roof will be and Mr. Mitchell responded it will be a 2/12 hip roof. Mr. Clark asked if the roof will still have skylights and Mr. Mitchell responded no, they will be eliminating the skylights. Mr. Clark suggested the applicant should add more slope to the roof. Mr. Schneider agreed and noted the additional height would not be seen by neighboring properties. Mr. Clark made a motion to approve a maximum building height of 35' to the roof ridge to allow enough slope for water discharge. Anil Vira 2<sup>nd</sup> the motion and the motion carried unanimously.

Having no further business, Dick Schneider made a motion to adjourn. Anil Vira 2<sup>nd</sup> the motion and the motion carried unanimously. The meeting was adjourned at 5:20 PM.