

The City of Fairhope Board of Adjustments and Appeals met on Monday, April 19, 2010 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.

Members Present: Chairman Bob Mannich; Suzanne Winston; Stan Grubin; Anil Vira; Jonathan Smith, Director of Planning & Building; and Emily Boyett, Secretary.

Absent: Vice Chair Cathy Slagle

The meeting was called to order at 5:04 PM by Chairman Mannich.

The minutes of the February 16, 2010 meeting were considered and Anil Vira moved to accept the minutes as written and was 2nd by Stan Grubin. Motion carried unanimously.

ZBA 10.01 Request of ARK Builders for front setback variance for property located on the northwest corner of the intersection of Edington Street and Cromwell Avenue, Lot 7 Edington Place Subdivision.

Jonathan Smith, Planning and Building Director, came forward and gave the Staff Interpretation.

STAFF INTERPRETATION: The subject property is zoned R-1 Low Density Single Family Residential District. ARK Builders is seeking a variance to the provisions of Table 3-2: Dimension Table – Lots and Principle Structure in the Fairhope Zoning Ordinance. Troy Strunk, RLA, ASLA of Watkins, Acy and Strunk Design is the authorized agent in this request.

Table 3-2 requires that all principle structures in the R-1 zoning district adhere to a minimum front-yard setback of forty feet (40'). There is not currently an existing dwelling on the lot. The Site Plan included shows a thirty five foot (35') front setback.

The applicant is requesting a five foot (5') variance to the required forty foot (40') front yard setback, due to an existing thirty inch DBH (30" DBH) "specimen live oak" in the rear yard within the buildable footprint area. The requested variance is the minimum deviation from the required front setback, to allow for the appropriate space between the proposed principle structure and the large oak tree. If the applicant adheres to the required forty foot (40') front setback, the live oak's root system and canopy will be in jeopardy.

West of the subject property is unzoned land in Baldwin County. North, south and east lies City of Fairhope R-1 Low Density Single Family Residential zoned property.

Facts to be considered in this case:

1. The subject property is zoned R-1 and is subject to a 40' front setback.

2. A 30” specimen live oak exists within the buildable footprint in the rear yard of the subject property.
3. According to Troy Strunk, RLA, ASLA, if the applicant adheres to the required 40’ front setback, the health of the existing 30” live oak on the property will most likely be compromised.
4. The property does meet the minimum criteria for the issuance of a variance due to the unusually large 30” live oak (topography) within the allowable building footprint area.

STAFF RECOMMENDATION: Staff recommends the Board of Adjustment approve the 5’ front setback variance request.

Mr. Mannich opened the public meeting. Troy Strunk of Watkins, Acy and Strunk Design was present to represent the applicant and answer any questions. He stated that ARK Builders were approached by the Edington Place Homeowners Association and asked to try to save the live oak. Tamatha McElmurry of 9160 Morphy Avenue was present to represent the Edington Place Homeowners Association and said the Association would like to see this beautiful large oak tree protected. Mr. Mannich asked if the request was due to the possibility of the foundation of the house damaging the tree’s root system and if the request is granted would the tree still have to be trimmed. Mr. Strunk responded that no trimming will be done and the request is to protect the tree and ultimately save the tree from any damage. He added that a tree protection barrier will be installed around the tree during the house construction. Anil Vira asked the differences between R-1 and R-2 setbacks. Mr. Smith responded R-1 has a 40’ front setback and 35’ rear setback and R-2 setbacks are 35’ for the front and rear. Stan Grubin moved to accept the staff recommendation to approve the 5’ front setback variance due to the topography of the lot. Suzanne Winston 2nd the motion and the motion carried unanimously.

New/Old Business – Bob Mannich stated his and Stan Grubin’s term on the Board will expire in May and he is asking not to be reappointed. Mr. Smith added that the City Council will be filling four positions on the Board and are accepting applications for appointment.

Having no further business, Suzanne Winston made a motion to adjourn. Stan Grubin 2nd the motion and the motion carried unanimously. The meeting was adjourned at 5:13 pm.