

The City of Fairhope Board of Adjustments and Appeals met on Monday, May 21, 2012 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; Sam Andrews; Debra Green; Ray Clark; Nancy Milford, Planner; and Emily Boyett, Secretary.

Absent: Clyde Panneton

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

The minutes of the January 17th, 2012 meeting were considered. Debra Green moved to accept the minutes as written and was 2nd by Troy Strunk. Motion carried with one abstention by Ray Clark.

Mrs. Slagle announced Ray Clark was appointed by the City Council as an alternate Board member and she welcomed him to the Board.

ZBA 12.02 Request of Charles and Jeannine Griffin for five foot (5') side-yard setback variances for property located at 254 N. Bayview Street.

Nancy Milford, Planner, came forward and gave the Staff Interpretation.

STAFF INTERPRETATION: The applicant is requesting a variance to the side yard setback requirements of the R-2 Medium Density Single Family Residential zoning district. The setbacks are established in Article III, Section C. Dimension Standards in the Fairhope Zoning Ordinance. The R-2 district requires a ten foot (10') side yard setback for principle structures on a lot. The applicant would like to reduce the setbacks to five feet (5') on both sides.

The lot dimensions for the subject property are approximately 50' x 129', which established the subject lot as an existing non conforming lot in the R-2 District. The R-2 minimum area and dimensional standards for a newly created lot include a minimum seventy-five foot (75') lot width and a lot area of 10,500 square feet. The subject lot is 50' wide and is 6,450 square feet in area. As currently situated, the lot will allow a 1,770 square foot building footprint with a 30' maximum building height. If a two story home were built on the subject property, the maximum allowable gross floor area for the principle structure is approximately 3,540 square feet.

The Zoning Ordinance addresses non conforming lots in Article VII. The provision that relates to a lot that is sub standard in lot width is as follows: "The side yard requirements of sub standard lots of record may be reduced for each side yard at the rate of one (1) foot for each four (4) feet by which the lot width lacks fifty (50) feet, provided in no event shall such side yard be reduced to less than five (5) feet on each side." The subject property is 50' in width.

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

Facts to be considered in this case:

1. The applicant is requesting five foot (5') side yard setbacks for an R-2 zoned lot where ten foot (10') setbacks are required.
2. There are not extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.
3. The application of the Fairhope Zoning Ordinance to this particular piece of property does not create an unnecessary hardship.

STAFF RECOMMENDATION: Staff recommends the Board of Adjustments deny the variance request due to the subject property not meeting the minimum criteria for the issuance of a variance. There is not a valid hardship constituting the issuance of a variance, per the City of Fairhope Zoning Ordinance.

Sam Andrews entered the meeting at 5:06 pm.

Jeannine Griffin addressed the Board saying Mr. Smith visited the property and said it is a unique situation due to one of the existing buildings encroaching onto USA's property. She said she was told that as long as they leave 50% of the structure, they will be able to build on the property line but they won't be allowed to have any windows on that side. She stated they would rather take down the structures and rebuild with something more esthetically pleasing.

Charles Griffin addressed the Board saying they each want an office but not any stairs because they have bad knees. He said they want to keep the pool and add grass for their grandchildren to enjoy. He said that won't be possible if they have to utilize the shed in the back as a garage.

Mr. Andrews asked if the applicant has contacted USA regarding the encroachment and Mrs. Griffin responded they had not but they will at least take down anything over the property line. Mrs. Slagle asked if the applicant had found any house plan that would conform to the required setbacks. Mrs. Griffin said they have looked at lots of house plans but so far nothing to fit that has what they want. She said they would like to have approximately 2000 square feet living area with a bonus room upstairs. Mr. Andrews suggested to look at custom home designers for a plan.

Ryan Creel of Creel Construction addressed the Board. He stated the house has termite damage and due to the unique situation of the lot he would like to be able to find a solution that will allow the Griffins to build something that will work for them and be an improvement to the City.

Mrs. Slagle opened the public hearing. Having no comments, Mrs. Slagle closed the public hearing.

Debra Green moved to accept the staff recommendation to deny the variance request due to the subject property not meeting the minimum criteria for the issuance of a variance. Sam Andrews 2nd the motion and the motion carried unanimously with the following vote: AYE – Cathy Slagle, Sam Andrews, Anil Vira, Debra Green and Troy Strunk.
NAY – None.

Old/New Business

Ms. Milford welcomed Ray Clark to the Board on behalf of the Planning and Building Department.

Mrs. Green asked about the Police Chief's e-mail regarding the Pier Street boat ramp. Mrs. Milford said she would check with Mr. Smith about it.

Having no further business, Anil Vira made a motion to adjourn. Troy Strunk 2nd the motion and the motion carried unanimously. The meeting was adjourned at 5:45 pm.