

The City of Fairhope Board of Adjustments and Appeals met on Monday, July 18, 2011 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; Nancy Milford, Planner; and Emily Boyett, Secretary. Absent: Clyde Panneton and Jonathan Smith, Director of Planning and Building

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

The minutes of the June 20, 2011 meeting were considered. Sam Andrews moved to accept the minutes as written and was 2nd by Anil Vira. Motion carried with one abstention by Cathy Slagle.

Debra Green stated she has a conflict with case ZBA 11.03 and she left the room.

ZBA 11.03 Request of Paul Fontenot of GDSI for a variance to the maximum lot coverage allowed for an accessory structure for property located at 117 Orange Avenue.

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

STAFF INTERPRETATION: The subject property is zoned R-2 Medium Density Single Family Residential District. Mr. Fontenot (authorized agent) is seeking a variance to the provisions of Table 3-3: Dimension Table – Residential Accessory Structures in the Fairhope Zoning Ordinance.

Table 3-3 requires that all accessory structures in the R-2 zoning district adhere to a maximum lot coverage percentage of 25% of the required rear yard. The 25% coverage allowance is rendered by multiplying the lot width by the required rear setback of 35' for the R-2 district and then multiplying that total by .25. The calculation for the subject property is as follows: $60 \times 35 = 2100$; $2100 \times .25 = 525$ square feet of the maximum allowable accessory structure coverage.

There is an existing 998 square foot home on the property that was constructed in the 1950's. The applicant would like to move the existing principle structure to the rear of the lot (making it the accessory structure) and construct a new home on the front portion of the lot.

While typical in the Fruit and Nuts section of Fairhope, the subject property is quite narrow at 60' where a minimum lot width of 75' is typically required for the creation of a new R-2 lot. If the subject parcel met the required lot width of 75', the maximum allowable accessory structure gross floor area would be 656 square feet. The existing 1950's structure would still be 342 square feet over what would be allowed for an accessory structure on a 75' wide R-2 lot.

In terms of lot area, the R-2 District requires a minimum lot area of 10,500 square feet; the subject property is 15,600 square feet (60 x 260 = 15,600). Based on this lot area, the maximum building footprint allowed in the R-2 district is calculated at a maximum of 37%, which in this case would allow for a 5,772 square foot principal structure footprint. The proposed residence and the existing cottage combined, the footprint area is just under 25% of the lot.

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

Facts to be considered in this case:

1. The applicant is requesting a variance to the 25% maximum allowable required rear yard coverage for an accessory structure.
2. If the principal structure is allowed to be moved to the rear of the lot and be classified as an accessory structure, just over 45% of the required rear yard area will be covered.
3. The lot is narrow at 60' and has a depth of approximately 260'; the lot area is approximately 15,600 square feet.
4. The combined square footage of the proposed new residence and the existing cottage are significantly lower than what is allowed for a new residence on a lot of this size in the R-2 zoning district.
5. There are **not** extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.

STAFF RECOMMENDATION: Although it would be environmentally beneficial to move the existing home on the lot and recycle the use of the existing structure, staff is bound by the requirements of the Zoning Ordinance to recommend denial of the accessory structure variance request. The recommendation for denial is based on the lack of any physical characteristics of the property that prohibit the use of the land as intended by the provisions in the Zoning Ordinance for the R-2 zoning district.

Charles Mixon, owner, addressed the Board saying they would like to relocate the existing structure to the rear of the lot. He noted Table 3-3 does not factor the size of the lot or the depth of the lot when calculating the allowable square footage of an accessory structure. He stated when compared to typical R-2 lots, their lot size is extraordinary. He added they are self-imposing a 70' rear setback to protect the houses behind them.

Mrs. Slagle opened the public hearing.

Dick Schneider of 113 Orange Avenue said the structure is too big to be an accessory structure. He said it will appear to have two homes on one lot and if they owners need

more area then they should ask the City to vacate the ROW along the rear of the property. He concluded by saying he recently built a new house and he does not want to see an old house.

Susan Glickman of 115 Orange Avenue said if this is approved it will set a precedent and if they want two homes then they should subdivide it. If the property can not be subdivided then they shouldn't be allowed to have the two homes on the one lot.

Carl Couret of 502 Pomelo Street commended the applicants for trying to recycle an existing home. He stated his concern is if the larger accessory structure is approved then the entire development would exceed the total allowable building percentages, if it will be less than the maximum then he does not have any problem with it. He added the Board should be environmentally concerned with over development of property.

Mr. Mixon reiterated the total lot coverage would be less than the allowable 37%. He said there is no credit given for the depth of the lot and he would be keeping with the neighborhood and be recycling the existing structure.

Mr. Schneider stated the applicant should not be allowed to put two structures on the same lot and if it can be subdivided then that what they should do. He added it would detract from his property if it looks like there are two homes on one lot.

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

There was discussion concerning the possible subdividing of the lot. Mr. Mixon stated the lot does not go all the way through to Pecan Avenue. He explained his lot abuts an approximate 20' alley and then there is another lot which fronts on Pecan. Staff concluded the lot would not meet the minimum requirements for subdivision. Mr. Vira asked if it will set a precedent if this variance is approved and Mrs. Slagle responded she believed it would and that others will ask to do the same thing. Mr. Andrews asked if the issue was just the size of the house and Ms. Milford responded yes. Mr. Vira asked if the applicants were to cut off a portion of the house would they be allowed use it. Ms. Milford stated the applicants could keep the entire structure if they attached it to the proposed new principal structure and they would not need a variance. Jane Tucker, applicant, stated she wants to use the structure as an artist studio to paint and use for her photography. She said she feels that they are being penalized for having a narrow, deep lot and not a wide, shallow lot. Mr. Strunk explained the Board is concerned with setting a precedent and can only grant a variance if the request meets the guidelines in the Zoning Ordinance. Will Mastin of GDSI restated the property is unusually deep and the site will not be exceeding the allowable site coverage and the applicant is proposing to double the rear setback. Anil Vira moved to accept the staff recommendation to deny the request based on the lack of any physical characteristics of the property that prohibit the use of the land as intended by the provisions in the Zoning Ordinance for the R-2 zoning district. Cathy Slagle 2nd the motion and the motion carried unanimously with the following vote: AYE – Cathy Slagle, Sam Andrews, Anil Vira and Troy Strunk. NAY – None.

Debra Green returned.

Old/New Business

Debra Green asked if staff could get copies of the leases and relevant documents between the City and Fairhope Single Tax for the gully properties that were turned over to the City as part of the City Parks. She said this information would be helpful in regards to setbacks for properties along the gully that come before the Board. Ms. Milford stated she would pass the request along to Jonathan Smith.

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 5:44 pm.