



**CITY OF OPELIKA  
ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA**

**300 Martin Luther King Blvd.**

**July 11, 2023**

**TIME: 9:00 AM**

**A. APPROVAL OF MINUTES**

**B. VARIANCE**

1. Thomas Padgett, 2714 Waverly Parkway, R-1 zoning district, Requesting an accessory structure exceed the maximum 40% of the principal dwelling as provided in Section 8.11 Accessory Structures for Residential Dwelling Units in the Zoning Ordinance and allow structure built in front yard.
2. Bernard Jackson, 1900 South Long Street, C-2 zoning district, Requesting a 18 foot setback variance from the minimum 30 foot rear yard setback requirement.

*“In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-5130.”*



# **ZONING BOARD OF ADJUSTMENT MINUTES**

**300 Martin Luther King Blvd.**

**March 14, 2023**

**TIME: 9:00 AM**

## **A. APPROVAL OF MINUTES**

The City of Opelika Zoning Board of Adjustments held the regular meeting March 14, 2023 in the Meeting Chambers located at the Opelika Municipal Court, 300 MLK Boulevard. Certified letters were mailed out to all adjacent property owners for related issues for meeting dates.

**MEMBERS PRESENT:** Chairman Wilbert Payne, Mr. Chris Anthony, Mr. Chris Nunn, Mrs. Angela George, Mrs. Tipi Miller, and Mr. Brandon Hilyer.

**MEMBERS ABSENT:** Mrs. Raven Harvis.

**STAFF PRESENT:** Mr. Matt Mosley, Planning Director  
Mr. Marty Ogren, Planning Assistant Director  
Mrs. Rachel Dennis, Planner

**CALL TO ORDER:** Chairman Payne called the meeting to order at 9:00 a.m.

**ROLL CALL:** Payne, Anthony, Nunn, George, Miller, and Hilyer.

Mr. Mosley welcomed Mr. Hilyer as the new board member filling Mr. Walters unexpired term.

## **Approval of Zoning Board of Adjustment Minutes December 13, 2022**

|                    |                                                                                                        |
|--------------------|--------------------------------------------------------------------------------------------------------|
| <b>RESULT:</b>     | <b>Passed</b>                                                                                          |
| <b>MOVER:</b>      | Chris Nunn                                                                                             |
| <b>SECONDER:</b>   | Tipi Miller                                                                                            |
| <b>DISCUSSION:</b> | Mr. Anthony stated that the members listed as present in the December 13, 2022 minutes were incorrect. |
|                    | Mr. Mosley stated that they would be corrected.                                                        |
| <b>AYES:</b>       | Miller, Hilyer, Nunn, George, Payne                                                                    |
| <b>NAYS:</b>       | None                                                                                                   |
| <b>ABSTAIN:</b>    | None                                                                                                   |

## **B. VARIANCE**

1. Dan Snively, 304 Williamson Avenue, M-1 zoning district, Requesting a 10 foot side yard setback variance from the 30 foot side yard setback requirement to construct a 50x100 building addition.

Mr. Mosley reported the applicant is requesting a 10-foot side yard variance to allow an addition to the building up to 20 feet from the west side property line. The subject property is

located on the corner of Williamson Avenue and Poplar Street. The property is currently operating as a business for Complete Tire and Service.

The subject property is located in the Orr Industrial Park. The setbacks for M-1 require 30 feet on the side property line. The applicant is asking to add an addition to the current building of 50 feet towards the west property line. The applicant shares an unusual property line on the west side that is not a parallel line. The west property line at the narrowest point would be a point of the setback measurements creating the desire for relief from the standard setback requirement of 30 feet for the building addition.

Our ordinance gives reason for a variance to be granted by exceptional narrowness and shape of the property to consider a variance. Surrounding properties do not share similar property line angles. Therefore, granting a side setback variance would not be a substantial detriment to the neighboring properties. The setback requested is presented to extend the building 50 feet with the same front and rear alinement as the existing building.

### **Recommendation**

Staff feels that this request would allow the business to continue to operate at this location more efficiently. Staff recommends approval of the proposed variance based on the site plan presented with the angle shaped side property line.

Certified letters were mailed to adjacent property owners on Wednesday, March 1, and a sign was posted on the property about the March 8<sup>th</sup> Zoning Board Public Hearing meeting. (At this writing, no one has contacted the Planning staff about the variance request.)



The above map shows the angle of the gray property line between 308 and 304.

Chairman Payne opened the public hearing.

Dan Snavelly, the applicant, stated that it was actually 50 feet by 60 feet wide. He noted that he was hoping to take the containers out and clean up the mess by expanding the building.

Chairman Payne closed the public hearing.

**Motion to grant approval for a 10-foot side yard variance from the 30 foot side yard setback requirement.**

|                  |                                     |
|------------------|-------------------------------------|
| <b>RESULT:</b>   | Passed                              |
| <b>MOVER:</b>    | Tipi Miller                         |
| <b>SECONDER:</b> | Chris Nunn                          |
| <b>AYES:</b>     | Miller, Hilyer, Nunn, George, Payne |
| <b>NAYS:</b>     | None                                |

**ABSTAIN:**       None

2.     Mike Maher, representative for Lee County Alabama Habitat for Humanity, 226 Cherry Avenue, R-3 zoning district, Requesting a 10 foot lot width variance from the 70 foot minimum lot width requirement to construct a single family home.

Mr. Mosley reported the applicant Dan Hatcher as agent for Lee County Habitat for Humanity (property owner), acquired a 150 x 200 lot on Cherry Avenue with one single-family home. The property is in an R-3 zoning district, and 10,000 square feet is the minimum lot size requirement. The applicant desires to subdivide the lot into three 10,000 square foot lots. The minimum front lot width is 70 feet. The middle lot is requesting a variance of 10 feet from the 70-foot required. The middle lot has 10,000 square foot in area but has a 60-foot front lot width. The existing home will be removed to build potentially three new homes. The homes will be constructed by Habitat for Humanity, a nonprofit organization that provides affordable homeownership to help build communities.

There is not a hardship in this variance request based on the lot's physical property such as a triangle shaped lot, severe slopes, or water features. However, the applicant is working with the City to provide as many affordable homes to this area as possible with the use of this land. The surrounding area has different zones (map attached). The lots would be compatible in size and character with the neighborhood. On the revised plan all the lots will meet the 10,000 square foot minimum requirement, the draft of the new home placements will meet the setback requirements. Prior to 2014, R-3 zoning district allowed 60 foot minimum lot width. This being the case several lots on the opposite side of the school property are shown at 60 foot front lot width (map attached). Only the middle lot is in need of the variance request 10 foot on the minimum lot width requirement. This request is minor, in character with the neighborhood, and should not be a disadvantage or harm to the adjacent properties.

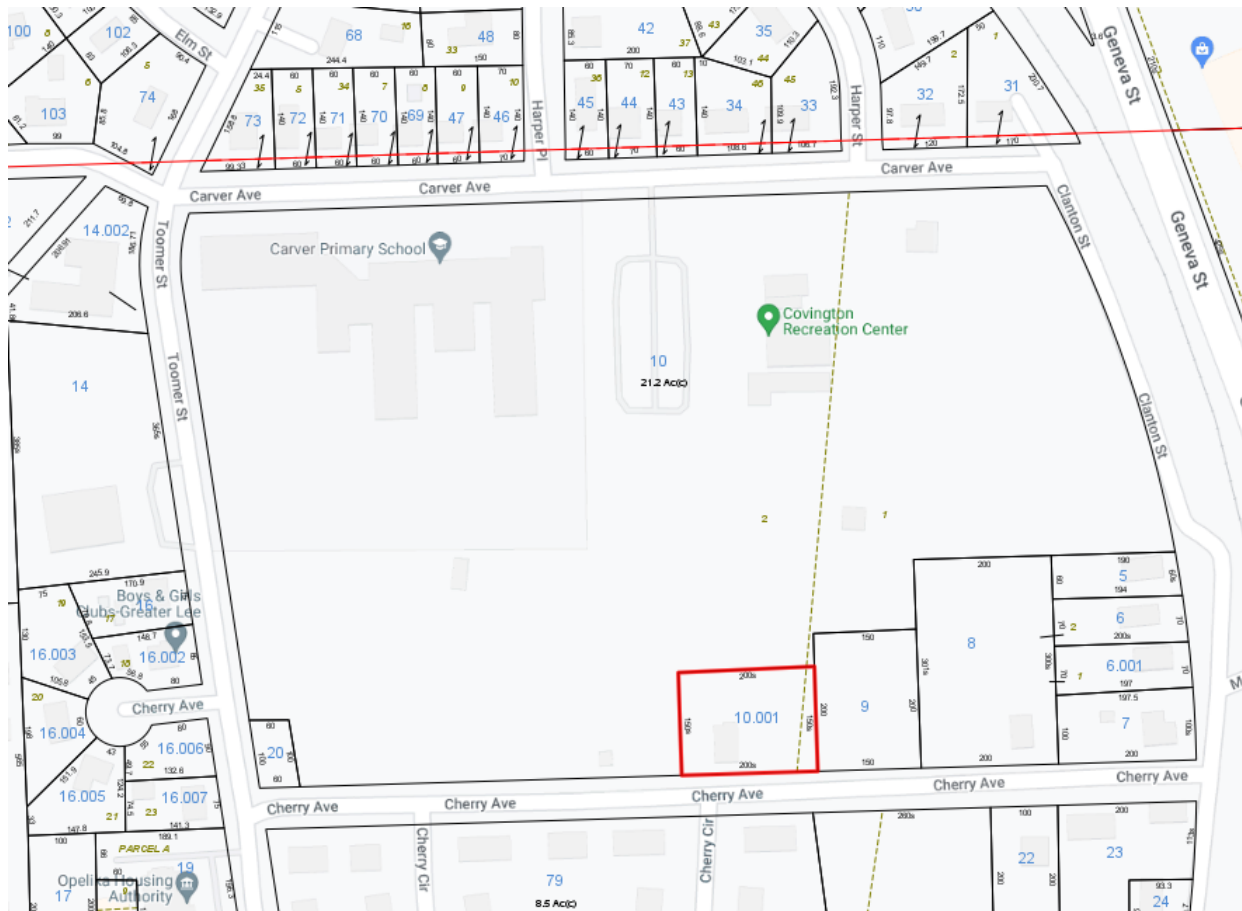
#### **Recommendation**

**Staff recommends a 10 foot lot width variance for one lot from the minimim 70 foot minimum lot width requirement.**

Certified letters were mailed to adjacent property owners on Wednesday, March 1, and a sign was posted on the property about the March 8<sup>th</sup> Zoning Board Public Hearing meeting. (At this writing, no one has contacted the Planning staff about the variance request.)



Zoning Map of area and lots around this property



Top: Map of property and lots around this property

Bottom: Close up of lot width.



Chairman Payne opened the public hearing.

Mike Maher, Precision Surveying, stated that Habitat for Humanity wanted to get three houses on this property and they found there was a little more land than the 200 feet, so any excess would be put toward that 60-foot lot. He stated that it meets all the other criteria and the houses fit easily.

Mrs. George asked Mr. Mosley if that whole area was going to be R-4?

Mr. Mosley stated that staff felt R-3 was an appropriate zone through this area, but that this was

a transition zone. He stated that is why we aren't recommending that the zone be changed, but instead have a variance. He noted that this keeps the R-3 zone which limits multi-family on that lot.

Mrs. Miller asked what size the houses were?

Mike Maher stated 28 by 45 feet.

Mr. Mosley noted that the existing home is about the same size as what the three houses would be.

Chairman Payne closed the public hearing.

**Motion to grant approval of a 10 foot lot width variance for one lot from the minimum 70 foot minimum lot width requirement.**

|                  |                                     |
|------------------|-------------------------------------|
| <b>RESULT:</b>   | <b>Passed</b>                       |
| <b>MOVER:</b>    | Tipi Miller                         |
| <b>SECONDER:</b> | Chris Nunn                          |
| <b>AYES:</b>     | Miller, Hilyer, Nunn, George, Payne |
| <b>NAYS:</b>     | None                                |
| <b>ABSTAIN:</b>  | None                                |

3. Manish Desai, 510 Geneva Street, C-2, GC-S zoning district, Requesting a 4.32 foot setback variance on the Geneva Street side from the 20 foot minimum side yard setback requirement to construct a 4,480 square foot office building.

Mr. Mosley reported the applicant is requesting a 4.32 foot side yard on street variance from the minimum 20 foot setback requirement to construct a 4,480 square foot (112' x 40") office building on a 16,700 square foot lot. A corner of the building facing Geneva Street encroaches into the minimum setback; the corner is 15.68 feet from the property line; the opposite corner facing Geneva Street meets the minimum 20 foot side yard on street setback requirement; the corner is 20.06 feet from the property line.

The applicant's lot is located between South 10<sup>th</sup> Street, Geneva Street, and the Columbus Parkway right-of-ways (ROW). The three streets converging at one point created an excessive amount of right of way on the south side (see white area on map next page). The applicant acquired about 4,000 square feet of ROW and added the property to his lot for the office development. (Off-street parking spaces are shown in this area that meets minimum parking requirements for the 4,480 sf building.) The map also provides that the property is irregular shaped and bordered by three right of ways that limits development.

In the 1990s, a small gas station occupied the property. Environmental monitoring equipment was required for the property to clean-up soil or water contamination. The equipment has been removed and development of property is allowed.

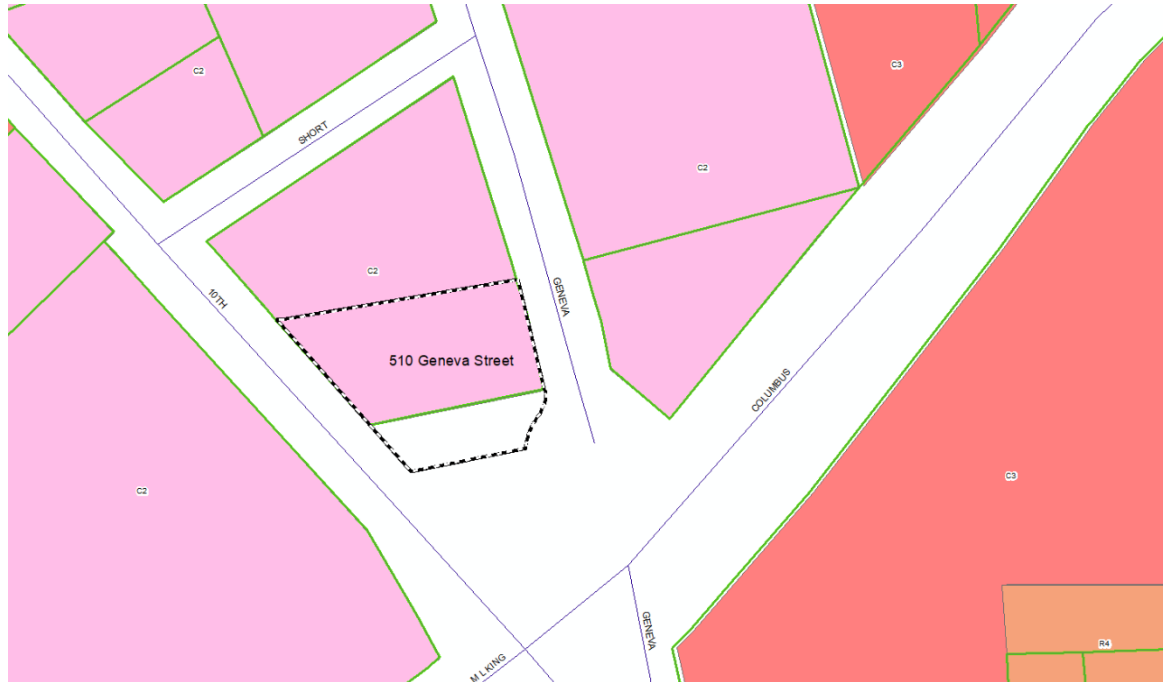
**Staff Recommendations**

Exceptional difficulties do exist on the applicant's property bordered by three right of ways and the lot irregular shaped. The applicant has worked with staff and decreased the size of the building so the minimum setbacks on the South 10<sup>th</sup> Street side and on the property line along the north side are met. Planning staff does not believe the variance will have an adverse effect

on Geneva Street. The setback request is near the end of Geneva Street; Geneva Street is a cul de sac street with limited vehicle traffic. Several buildings along this section of Geneva Street were constructed before 1960 and do not meet the current minimum 25 foot front setback.

The applicant's property is in the Historic District; the applicant applied for Historic Commission approval. The Commission reviewed building elevations and approved the architectural style of the building as compatible with nearby structures and contributes to the Historic District.

**Planning staff recommends a 4.32 foot side yard on street variance on Geneva Street from the 25 foot side yard on street setback requirement.**



Chairman Payne opened the public hearing.

Ledge Nettles, Baseline Surveying, stated that the City was able to work with Mr. Desai and gain a little property to the south of this property to add to it. He stated that otherwise it would have been very difficult to fit anything and they thought the best way to face it was at the intersection because they didn't want it to face sideways. He noted that it was an odd lot with the three streets coming into a junction.

Chairman Payne asked if there was any feedback from adjacent property owners.

Mr. Mosley stated that we got a couple of questions from one or two of the neighbors, but that to his knowledge none of them had any issues, they were just asking what was being requested.

Mrs. Miller asked if the Historic Preservation Commission regulated what type of business can go there?

Mr. Mosley stated that the Historic Preservation Commission regulates the building and can regulate how far it sits back from the property or the roof pitch or characteristics of the built environment or the site, including landscaping, sidewalks, and parking. He stated the Historical Preservation Commission does not regulate the use of the property unless a use were to go

somewhere where there's not a way to put enough parking and keep the historic character. He noted that if a use was conditional within the zoning district, that would fall to the Planning Commission. He stated that the applicant has limited parking and there could be times when administration limits the use to not exceed the amount of parking available. He noted that some uses can have alternating active times in order to coexist, but that uses that are constantly busy, like a doctors office or a daycare might not fit here. He stated this is most likely going to be office or retail space.

Mrs. Miller asked if this fits within the Gateway Corridor Overlay at that exit?

Mr. Mosley stated that it is a better visual than the former testing well station and that some landscaping will need to be replaced after construction, but overall this is an improvement to the entry facade on Geneva Street. He noted that the materials used will fit within our Gateway Corridor requirements.

Chairman Payne closed the public hearing.

**Motion to grant a 4.32 foot setback variance on the Geneva Street side from the 20 foot minimum side yard setback requirement**

|                  |                                     |
|------------------|-------------------------------------|
| <b>RESULT:</b>   | <b>Passed</b>                       |
| <b>MOVER:</b>    | Chris Nunn                          |
| <b>SECONDER:</b> | Tipi Miller                         |
| <b>AYES:</b>     | Miller, Hilyer, Nunn, George, Payne |
| <b>NAYS:</b>     | None                                |
| <b>ABSTAIN:</b>  | None                                |

4. J Manifold Construction, authorized representative for Jeremy Wolter, property owner, 314 3rd Avenue, R-2 zoning district, Requesting a 10.5 foot side yard setback variance from the 25 foot side yard on street requirement to construct a 29.7x 26.7 pool house.

Mr. Mosley reported the applicant is requesting a 10.5 foot side yard on street (North 4<sup>th</sup> Street) setback variance (north side) from the minimum 25 foot side yard on street setback requirement. The property is on the corner of 3<sup>rd</sup> Avenue and North 4<sup>th</sup> Street; the applicant's home faces 3<sup>rd</sup> Avenue; North 4<sup>th</sup> Street is the side yard on street. The pool house is an accessory structure since it is detached from the principal dwelling. An accessory structure may be constructed in the side yard on street if the minimum setbacks are met.

The proposed pool house is 29.7' x 26.7' as shown on site plan. The pool house is 14.5 feet from the property line along North 4<sup>th</sup> Street. An existing gazebo (13x26) will be removed, and the pool house constructed at the same location as gazebo except the pool house is wider (see site plan in packet). The gazebo or pool house location is between the swimming pool and North 4<sup>th</sup> Street property line. The pool house structure is larger than the gazebo, therefore will be 6 feet closer to the 4<sup>th</sup> Street property line as well as six feet closer to the swimming pool.

The applicant's home is in an older neighborhood; homes were built from 1915 to 1968. Along North 4<sup>th</sup> Street, homes near the applicant's home are setback from 8 feet to 42 feet; two homes do not meet the current minimum 25 foot setback. These homes were permitted for construction and met minimum setbacks at the time of construction (or minimum setbacks did not exist).

Along North 4<sup>th</sup> Street and the rear property line, an 8 foot tall brick privacy wall exists on the

applicant's property (see photo on page 2). The brick wall also serves as a visual barrier for the pool house. The highest point of the pool house will be 16.5 feet to the ridge; the roof's ridge is the highest point of the pool house. The pool house exterior walls are 10 feet high. Most of the pool house will be hidden by the brick wall. Staff believes the pool house will have a minimal impact on adjacent properties.

There is no physical hardship in this case based on an irregular shaped lot or a severe slope that usually justifies a variance request. The property is unique because of the existing 8 foot tall wall along North 4<sup>th</sup> Street and the rear property line serving as a visual barrier. Staff believes the applicant's request is reasonable since a brick privacy wall is in place. Strict compliance to the minimum setbacks may prevent improvements on the property.

The property is in the Northside Historic District and is scheduled to be heard by the Historic Preservation Commission on March 9, 2023. Approval from both the HPC and ZBA will be required to construct the pool house.

**Staff recommends approval for a 10.5 foot variance from the minimum 25 foot side yard on street requirement to construction of a 29.7' x 26.7' pool house subject to approval from the Historic Preservation Commission.**

Certified letters were mailed to adjacent property owners and a ZBA sign posted on the applicant's property about the March 14<sup>th</sup> ZBA public hearing.



On left side, adjacent property with truck in driveway and brick privacy wall along rear property line.

On right side, brick privacy wall 8' tall along North 4<sup>th</sup> Street property line.

Mr. Mosley noted that staff had a few people call and ask about this variance but they weren't positive or negative responses.

Chairman Payne opened the public hearing.

Colin Nease, J. Manifold Construction, authorized representative, stated that they were just trying to build a pool house.

Chairman Payne closed the public hearing.

**Motion to approve a 10.5 foot side yard setback variance from the 25 foot side yard on street requirement**

|                  |                                     |
|------------------|-------------------------------------|
| <b>RESULT:</b>   | <b>Passed</b>                       |
| <b>MOVER:</b>    | Angela George                       |
| <b>SECONDER:</b> | Chris Nunn                          |
| <b>AYES:</b>     | Miller, Hilyer, Nunn, George, Payne |
| <b>NAYS:</b>     | None                                |
| <b>ABSTAIN:</b>  | None                                |

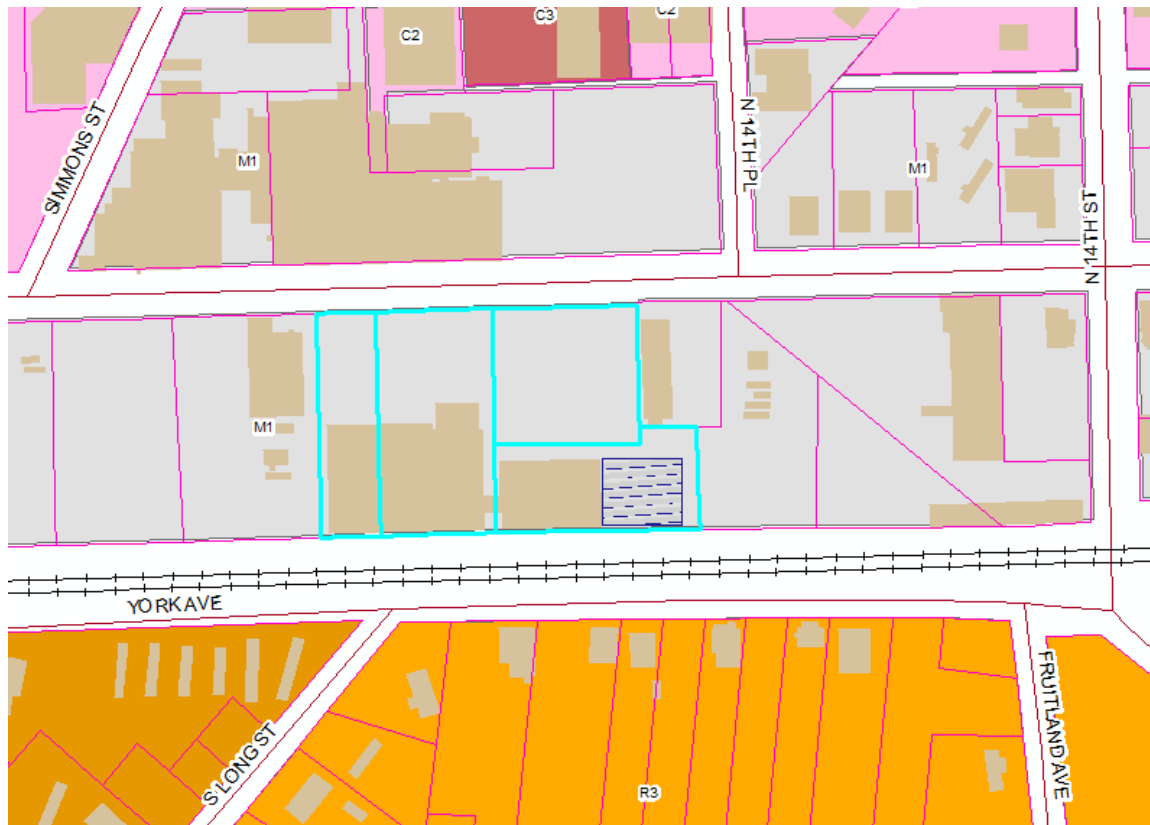
5. Lamar Daniels, Premium Beverage Company, 1511 & 1507 First Avenue, M-1 zoning district, Requesting a 30 foot front yard setback variance from the 30 foot front yard setback requirement and requesting a 25 foot rear yard setback variance from the 30 foot rear yard setback requirement and requesting a 20 foot side yard setback variance from the 30 foot side yard setback requirement.

Mr. Mosley reported Premium Beverage is requesting approval to construct an additional warehouse building on an existing structure that is located between property owned by the railroad. The current building is located five (5) feet from the railroad. The company has agreed to lease of the property between the subject property and the 1<sup>st</sup> Avenue from the railroad. The applicant is proposing to construct a 9,184 square foot building that would follow the same front and rear setbacks. The applicant is also proposing to add a canopy that would cover trucks along the front of the building.

The railroad, in general, does not sell property even if they do not plan to use it in the future. The tend to hold the property in long term leases or renewing leases with very stringent requirements. The applicant is planning to move most of the current truck parking from existing locations to the west and have them enter and park on the leased property. This should improve traffic and safety through the area as it will allow trucks to access the building without backing up on 1<sup>st</sup> Avenue.

The additional building space allows Premium Beverage consolidate their operations to one property. This allows them to stay in this location instead of moving to another site or splitting their facilities between two sites in Opelika or the surrounding areas.

The proposed variances would have the greatest impact on the side of the building to the east. This is against KB fuels which is also an industrial user that works daily with premium beverage. The proposed setback should not create any nuisances or codes issues that affect the other users.



The use and configuration of the property adjacent to the railroad is unique to this site and provides greater buffering than normally would be provided. Additionally, the use is continuation of the industrial nature of the City, complete application of the current regulations would severely limit the ability of this use to continue at its long existing location.

#### **Recommendation:**

**Planning Department recommends approval of the following variances:**

1. **30-foot front yard setback variance from the 30-foot minimum front yard setback requirement to the north**
2. **25-foot rear yard setback variance from the minimum 30-foot side yard setback requirement along the south property line (railroad)**
3. **20-foot side yard setback variance from the minimum 30-foot side yard setback requirement along the east property line**

Chairman Payne opened the public hearing.

Lamar Daniels, Premium Beverage, stated that this would allow them to move everything under one roof and sell their other property. He stated this would allow the 18 wheelers with inbound freight to get off the road quicker, which would help the City with safety and help them with efficiency.

Mrs. George asked how far from the tracks are you required to be?

Mr. Mosley stated that typically the railroad likes 50 feet of right-of-way between the center line of the track to the property line adjacent to them. He stated that looks to be about 40 to 50 feet from the rail line to the edge of their property and their building is set back even further.

Mrs. George asked if there was a loading zone?

Lamar Daniels stated that there is one but it is not active.

Chairman Payne closed the public hearing.

**Motion to approve the 30-foot front yard setback variance from the 30-foot minimum front yard setback requirement to the north, the 25-foot rear yard setback variance from the minimum 30-foot side yard setback requirement along the south property line (railroad), and the 20-foot side yard setback variance from the minimum 30-foot side yard setback requirement along the east property line**

|                  |                                     |
|------------------|-------------------------------------|
| <b>RESULT:</b>   | Passed                              |
| <b>MOVER:</b>    | Tipi Miller                         |
| <b>SECONDER:</b> | Chris Nunn                          |
| <b>AYES:</b>     | Miller, Hilyer, Nunn, George, Payne |
| <b>NAYS:</b>     | None                                |
| <b>ABSTAIN:</b>  | None                                |

C. ADJOURN

**Motion to adjourn at 9:45 p.m.**

|                  |                                     |
|------------------|-------------------------------------|
| <b>RESULT:</b>   | Passed                              |
| <b>MOVER:</b>    | Chris Nunn                          |
| <b>SECONDER:</b> | Tipi Miller                         |
| <b>AYES:</b>     | Miller, Hilyer, Nunn, George, Payne |
| <b>NAYS:</b>     | None                                |
| <b>ABSTAIN:</b>  | None                                |

\_\_\_\_\_ Wilbert Payne, Chairman

\_\_\_\_\_ Matt Mosley, Secretary

**CITY OF OPELIKA - ZBA**  
**STAFF REPORT**  
July 11, 2023

---

|                |                                                                                                                                                                                                                                     |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Applicant:     | Thomas Padgett, owner                                                                                                                                                                                                               |
| Property:      | 2714 Waverly Parkway                                                                                                                                                                                                                |
| Existing Zone: | R-1                                                                                                                                                                                                                                 |
| Request:       | Requesting an accessory structure exceed the maximum 40% of the principal dwelling as provided in Section 8.11 Accessory Structures for Residential Dwelling Units in the Zoning Ordinance and allow structure built in front yard. |

**Proposal**

The applicant requested to build a 26 x 26 shed to be used for storage of tools, welding equipment, tractor, and 1965 Ford Mustang the total square footage is 676 square feet. The applicants home placement on the lot is unique and is in the rear of the lot. The home is approximately 786 square feet; 315 square feet is the 40% maximum square footage of accessory structure(s) allowed (786 x 40%). The applicant is requesting a 46% (367 sf) variance over the 40% maximum allowed to construct a new accessory structure. The lot layout and access are the reasoning for the location of the shed in the front yard area.

The Zoning Ordinance states in Section 8.11 *Accessory Structures for Residential Dwellings*, 5. On anyone (1) residential lot, the total square footage of all the accessory structures combined shall be limited to forty percent (40%) of the principal dwelling unit. Residential accessory structures include storage buildings, detached garages, detached carports, gazebos, greenhouses, etc. but not swimming pools. Lots of two (2) acres or larger may be exempt from this limitation at the discretion of either the Planning Director or Assistant Planning Director.” The purpose of limiting accessory structures to 40% of the home size is to preserve the natural open space between adjacent residential properties and maintain the quality of a residential neighborhoods. An excessive number of accessory structures or a few large accessory structures in the rear yard would occupy the open space area enjoyed between adjacent properties. The Zoning Ordinance in the language set forth in Section IV Zoning Board of Adjustment: Section 4.2 Powers; Paragraph A., states in part “or the use or development of property immediately adjacent thereto” provides language for consideration.

**Staff Discussion:**

Without the variance the applicant can have a structure total of 320 square feet of accessory structures. The hardship in this case is the location of the house, and an accessory structure of this size is within the character of the R-1 zoning district. This lot is 44,896 square feet and is larger than the minimum lot size in the R-1 zoning district (1 acre). The surrounding area is zoned R-1 and R-3. The lot sizes around this property vary. The adjacent property to the west was approved to have a large accessory structure. The shed placement due to wooded area will not be able to be seen

from Waverly Parkway and will be about 20 feet from the house. The applicant's home has an existing wooded surrounding. The proposed structure will be setback about 45 feet from side property line. The Zoning Ordinance allows an accessory structure to be installed/constructed 5 feet from property lines. Staff feels there is adequate open space area between adjacent properties and the structure.

**Recommendation:**

Due to the unique placement and size of the 1940's home, this creates a hardship in placement and size of an accessory structure in the rear of the property. This parcel is land locked except for the driveway access easement from Waverly Parkway. Planning Department recommends allowing the construction of the accessory structure 367 square foot over the 40% allowed and the front yard due to this hardship.

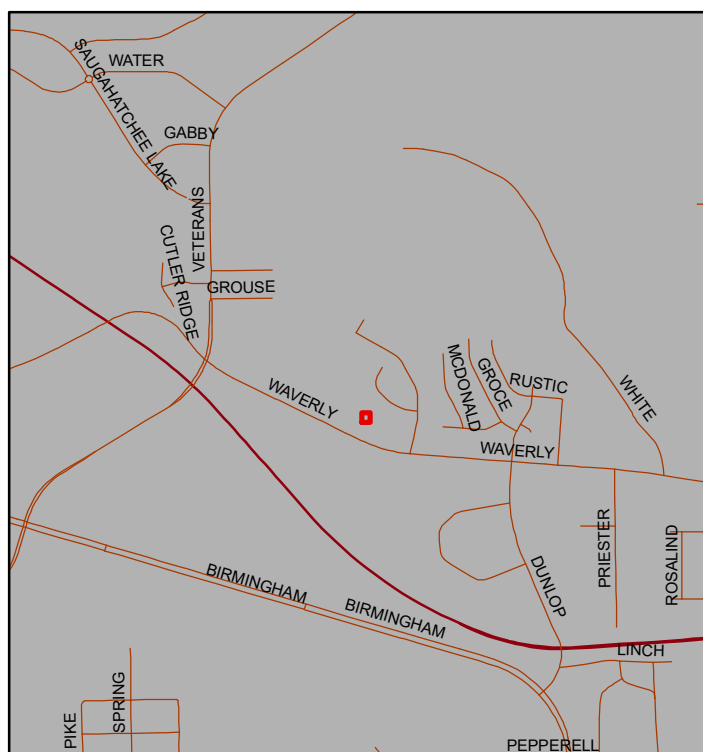
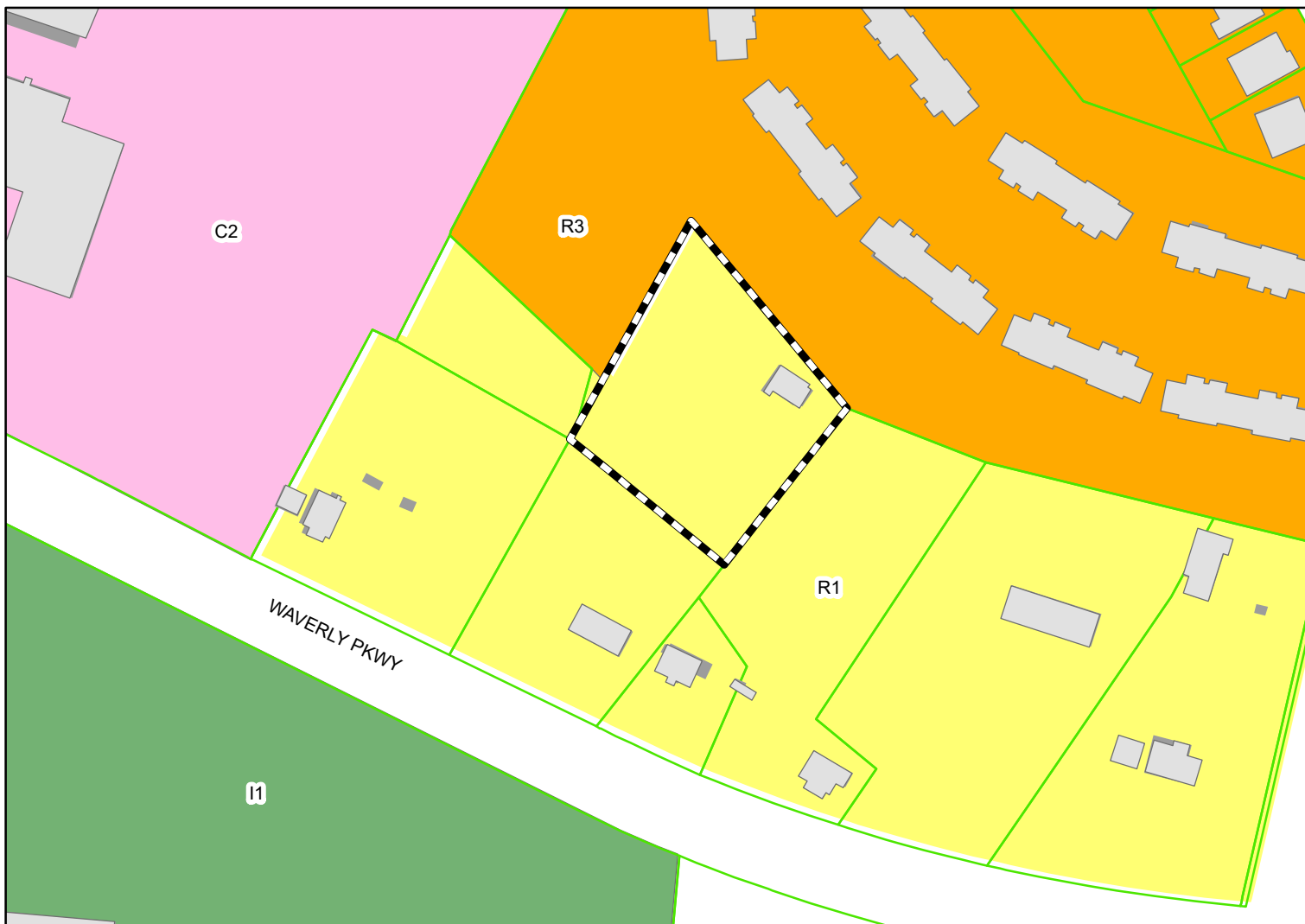
Certified letters were mailed to all adjacent property owners.



# THOMAS PADGETT VARIANCE REQUEST

## 2714 WAVERLY PARKWAY

### ACCESSORY STRUCTURE EXCEED 40% LIMIT AND LOCATE IN FRONT YARD



The applicant is requesting a proposed 26x26 accessory structure exceed the maximum 40% of the dwelling and construct structure in front yard. The property is accessed by easement does not front on public street, and structure cannot be seen from a public street.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without verification by an independent professional qualified to verify such information.







**APPLICATION FOR  
VARIANCE (Section 4.2A)**  
PLANNING DEPARTMENT  
700 FOX TRAIL  
OPELIKA, AL 36801



|                      |                                                    |
|----------------------|----------------------------------------------------|
| DATE: Thomas Padgett | Zoning Board of Adjustment Meeting Date: July 11th |
| Case Number:         | Meeting Deadline:                                  |

**PART I. OWNER / APPLICANT INFORMATION**

Thomas Padgett 2714 Waverly Pkwy 334-759-4580  
 Owner Name Address Phone

Agent Name (if applicable) Address Phone

**PART II. PARCEL INFORMATION**

Street Address: 2714 Waverly Pkwy

Current Zoning: R-1

Current Land Use: Single family home

Type of Variance Sought: \_\_\_\_\_ Sign \_\_\_\_\_ Parking \_\_\_\_\_ Setback ☒ Other

**PART III. Provide a Brief Description and Reason for the Variance (attach a zoning map or site plan)**

Requesting to install a 26'x26 accessory structure for personal use only to secure tool chest, welding equipment, maintain tractor, and restore 1965 Ford Mustang. Also, work tables with vices in structure. 26x26 dissembled from my previous home site and request reassemble on Waverly Pkwy. No business operations at 2714 Waverly Pkwy. I'm 72 years old and retired.

| Setback | Required | Proposed | Amount of Variance |
|---------|----------|----------|--------------------|
| Front   |          |          |                    |
| Side    |          |          |                    |
| Side    |          |          |                    |
| Rear    |          |          |                    |

**PART IV.**

1) Are there extraordinary and/or exceptional conditions to the particular property, which make a variance necessary? \_\_\_\_\_

**CITY OF OPELIKA - BZA**  
**STAFF REPORT**  
July 11, 2023

---

Applicant: Barbara Jones, property owner  
Bernard Jackson, representative/contractor

Property: 1900 South Long Street

Existing Zone: C-2 (office-retail)

Request: Requesting a 18 foot rear yard setback from the minimum 30 foot rear yard setback requirement.

The applicant is requesting an 18 foot rear yard setback variance to construct an 8' x 10' addition for a hot water heater and storage area. An existing hot water heater will be moved from another room to the addition. In 1956, an 854 square foot building was constructed at 190 South Long Street with a 20 foot rear yard setback from the property line. *(In July 2022, a 180 square foot addition (10x18) was approved on the south side of building. The addition is under construction. The total area of the building with addition is 1,034 square feet.)* Currently, the minimum rear yard setback is 30 feet, therefore the building is legal nonconforming. The building encroaches 10 feet into the current 30 foot minimum rear yard setback. The applicant's request for an 8'x 10' addition adds 8 more feet encroaching into the 30 foot setback; an 18 foot variance is requested. If the 18 foot variance is approved, the 8x10 addition will be 12 feet from the rear property line.

The Zoning Ordinance (Section 8.20, #4) <sup>1</sup> allows the property owner to continue using a legal nonconforming building as it exists. However, if there is a proposed addition to the nonconforming building/structure that increases (or decreases) the square footage of the existing nonconforming building then the structure must be in complete compliance with the [zoning] district the structure is located." In this case at 1900 S long Street, the property must comply with the minimum off-street parking and landscape requirements.

---

<sup>1</sup> Non-conforming land uses and non-conforming structures are declared by this ordinance to be incompatible with permitted uses/conforming structures in the districts in which they are located. However, to avoid undue hardship, the lawful use of any structure or land use at the time of the enactment of this ordinance may be continued even though such use or structure does not conform with the provisions of this ordinance except that the non-conforming structure or land use shall not be:

4. Enlarged or altered in any way which increases or decreases the amount of gross floor area of a structure or building unless such use/structure shall be in complete compliance with the regulations (i.e. including parking requirements landscaping requirements, etc.) governing the district within which said use/structure is located or unless enlargement or alteration is required by the' building codes.\*

For about 20 years, the applicant/property owner has operated a beauty salon business at 1900 S Long Street. The applicant has a full time job (Dollar Tree), so her beauty salon customers are scheduled 'by appointment only'. The applicant plans to have another hairdresser that will also serve customers 'by appointment only'.

In addition to cutting & styling hair, the applicant will also reupholster furniture. The reupholstery business is about 280 sf of the 1,034 sf building. The upholstery business is also 'by appointment only.' The applicant does not sell beauty products or upholstery material like a retail store. The applicant provides labor services only to customers (styling hair & reupholster furniture).

The upholstery shop requires conditional use approval by the Planning Commission that will be scheduled at a later time. Off-street parking requirements for the two businesses will be discussed with the Planning Commission. The applicant's property provides a maximum seven parking spaces as shown on the site plan (page 3). Minimum parking requirements for one hair salon operator is four off-street parking spaces and one parking space required for the upholstery business if repairs are provided by the applicant. A total of five parking spaces is required. If a 2<sup>nd</sup> hairdresser is added, then 9 parking spaces are required for two hairdressers and upholstery repairs by the applicant. Minimum landscaping requirements will also be discussed at the Planning Commission meeting including a residential buffer along the rear property line.

## **Recommendation**

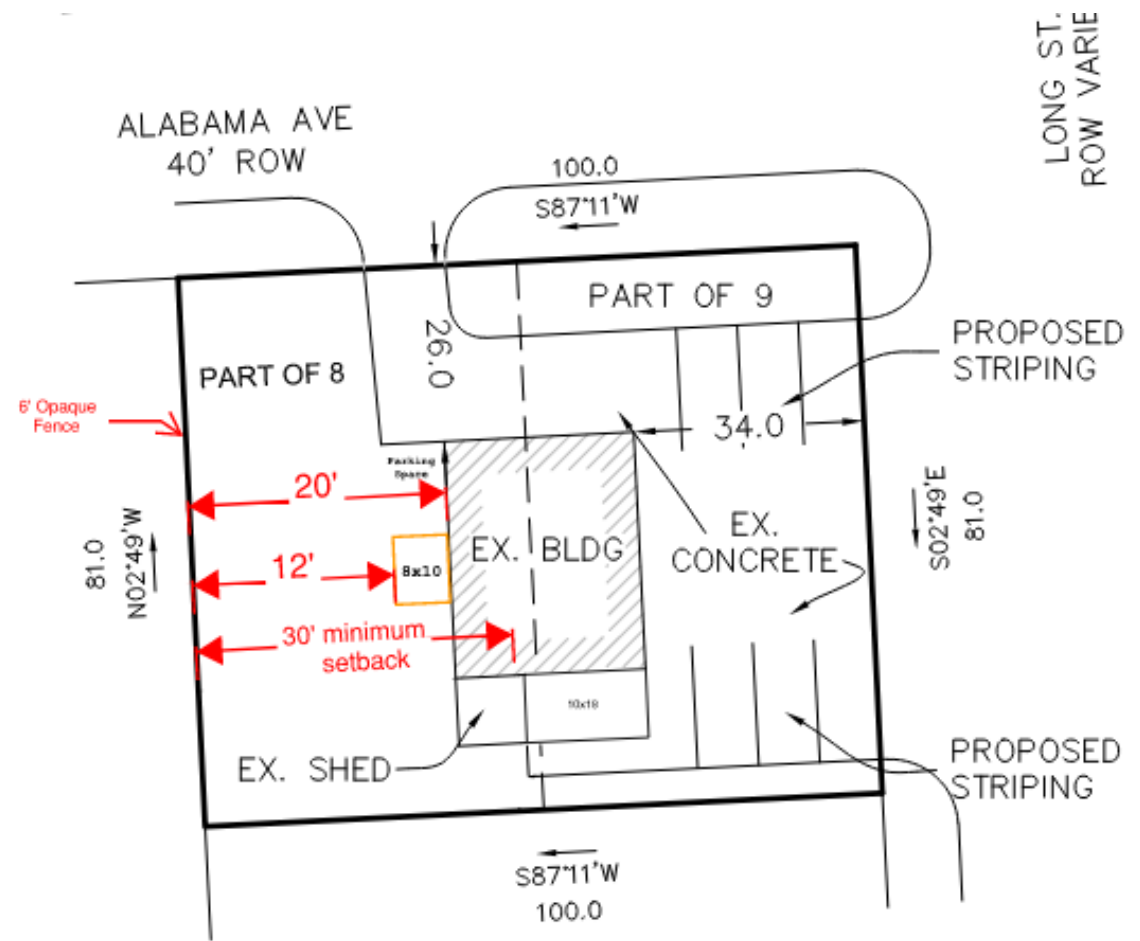
There are no practical difficulties or hardships based on the lot's shape (81'x100') or lot size (8,100 sf), and the topography that warrants a variance. The property is square shaped and the elevations are flat or level.

In 1956, the building at 1900 South Long Street was built 20 feet from the rear property line. The 1969 Zoning Ordinance and the amended 1991 Zoning Ordinance has a minimum 30 foot rear yard setback for the applicant's property (and surrounding area). The zoning designation in 1969 was B-4 and amendments in 1991 changed the zoning designation to C-2. The Zoning Ordinance before 1969 was not found. If one assumes the minimum rear yard setback was 20 feet before 1969, then 10 feet of the 18 foot variance request came about from the 1969 amendments to the Zoning Ordinance; the remaining 8 feet was from the applicant's variance request for a 8x10 addition. Most of the commercial structures along South Long Street and along Frederick Avenue, adjacent street were constructed before 1977. Most (and possibly all commercial structures) are legal nonconforming structures not meeting the current minimum setbacks in either the front, side, or rear yard.

The adjacent single family home along the rear property line next to the applicant's building was built in 1940. The home was built 8 feet from the applicant's rear property line. If the applicant's variance is approved, then the applicant's 8x10 addition will be 12 feet from the rear property line. Recently, the adjacent property owner built a 6 foot high solid opaque fence (sheet metal between fence posts) along the rear property line.

A variance is not warranted because of a hardship based on the property being narrow or has severe elevations. Ten feet of the 18 foot variance is from the existing building encroaching 10 feet into the 30 foot setback. Most adjacent structures along S Long Street exist as legal nonconforming properties in this C-2 district. Most commercial structures in this South Long Street and Frederick Avenue area were built before 1977; the structures are legal nonconforming not meeting either the minimum 30' front, 10' side, or 30' rear setbacks. Staff does not believe approval will be a detriment to or have any special impact to the adjacent properties. Staff cannot make a positive recommendation as this expands on an existing nonconforming structure without a hardship. However, the number of other non-conforming buildings in the area do lend credence to the thought that the addition would not be out of character for the neighborhood.

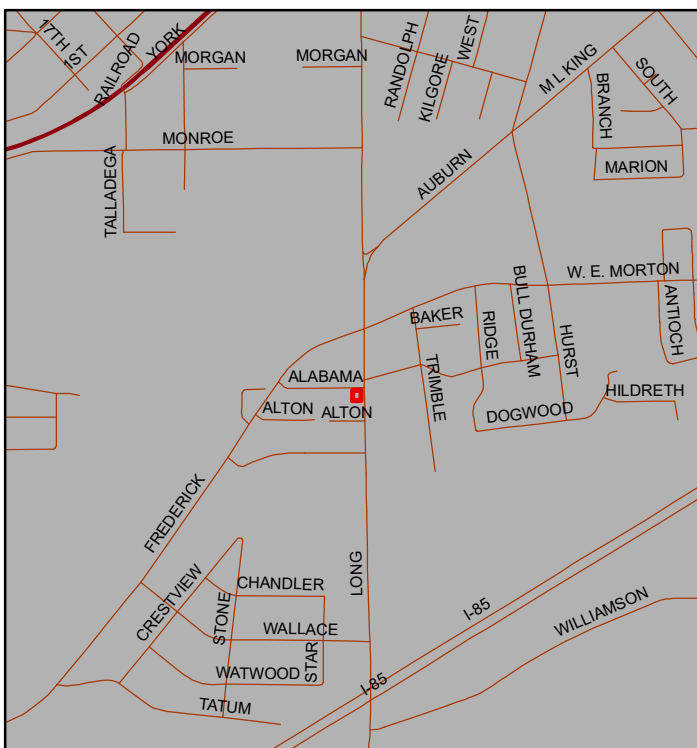
Certified letters were mailed to adjacent property owners and a Zoning Board sign about the variance was posted on the property Monday, July 3<sup>rd</sup>. (At this writing no one has contacted Planning staff about the variance request.)



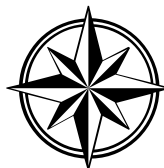
# BERNARD JACKSON VARIANCE REQUEST

## 1900 SOUTH LONG STREET

### REAR YARD SETBACK VARIANCE



The applicant is requesting a 18 foot variance from the minimum 30 foot rear yard setback requirement to construct a 8 x10 addition for storage and a hot water heater. The existing building is legal nonconforming constructed 20 feet from the rear property line in 1956 and now the minimum rear setback is 30 feet.



**Subject Property**

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without verification by an independent professional qualified to verify such information.

The site plan for 100 Alabama Ave shows a rectangular property with the following details:

- Property Dimensions:** 100.0' wide by 81.0' deep.
- Setbacks:**
  - Front (Alabama Ave): 30' minimum setback.
  - Left (6' Opaque Fence): 12' setback.
  - Right (Long St.): 34.0' setback.
- Proposed Improvements:**
  - Proposed Striping on Alabama Ave and Long St.
  - Proposed 8x10' Shed.
  - Proposed 10x18' Shed.
  - Proposed 26.0' wide Driveway.
- Existing Structures:**
  - EX. BLDG (Existing Building).
  - EX. SHED (Existing Shed).
  - EX. CONCRETE (Existing Concrete).
- Other Features:**
  - Part of 8 (Adjacent to 6' Opaque Fence).
  - Part of 9 (Adjacent to 34.0' Setback).
  - 81.0' (Property Depth).
  - 100.0' (Property Width).
  - S87°11'W (Bearing for Driveway and Property Line).
  - N02°49'W (Bearing for Property Line).
  - S02°49'E (Bearing for Property Line).

P:\Jobs\2022\22-0421\22-0421-SP.dwg, 6/10/2022 10:38:36 AM, 1:30



**APPLICATION FOR  
VARIANCE (Section 4.2A)**  
PLANNING DEPARTMENT  
700 FOX TRAIL  
OPELIKA, AL 36801



|              |                                          |
|--------------|------------------------------------------|
| DATE:        | Zoning Board of Adjustment Meeting Date: |
| Case Number: | Meeting Deadline:                        |

**PART I. OWNER / APPLICANT INFORMATION**

Owner Name \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

Agent Name (if applicable) \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

**PART II. PARCEL INFORMATION**

Street Address: \_\_\_\_\_

Current Zoning: \_\_\_\_\_

Current Land Use: \_\_\_\_\_

Type of Variance Sought: \_\_\_\_\_ Sign \_\_\_\_\_ Parking \_\_\_\_\_ Setback \_\_\_\_\_ Other \_\_\_\_\_

**PART III. Provide a Brief Description and Reason for the Variance (attach a zoning map or site plan)** \_\_\_\_\_

| Setback | Required | Proposed | Amount of Variance |
|---------|----------|----------|--------------------|
| Front   |          |          |                    |
| Side    |          |          |                    |
| Side    |          |          |                    |
| Rear    |          |          |                    |

**PART IV.**

1) Are there extraordinary and/or exceptional conditions to the particular property, which make a variance necessary? \_\_\_\_\_