



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

300 Martin Luther King Blvd.

January 9, 2024

TIME: 9:00 AM

- A. ELECTION OF ZONING BOARD OF ADJUSTMENT OFFICERS (Chair and Vice Chair)
- B. APPROVAL OF MINUTES
- C. VARIANCE
 - 1. Kenneth Riley, authorized representative for Fannie Mae, 1626 3rd Avenue, R-5, Requesting an 8' variance from the minimum 20' side yard on street setback and a 5' variance from the minimum 10 foot side yard setback requirement to construct a single family home.

"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.

December 12, 2023

TIME: 9:00 AM

A. APPROVAL OF MINUTES

The City of Opelika Zoning Board of Adjustments held the regular meeting December 12, 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, Mrs. Raven Harvis, Mrs. Tipi Miller, Mr. Brandon Hilyer, Mr. Chris Anthony, and Mrs. Angela George.

MEMBERS ABSENT: Mr. Chris Nunn.

STAFF PRESENT: Mr. Matt Mosley, Planning Director
Mr. Marty Ogren, Planning Assistant Director
Mrs. Rachel Dennis, Planner
Mrs. Claire Barber, Planning and Zoning Technician

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

ROLL CALL: Payne, Harvis, Miller, Hilyer, Anthony, George.

Approval of Zoning Board of Adjustment Minutes August 8, 2023

RESULT:	Passed
MOVER:	Raven Harvis
SECONDER:	Tipi Miller
AYES:	Miller, Hilyer, Harvis, George, Payne
NAYS:	None
ABSTAIN:	None

B. VARIANCE

1. Matthew Hall, representative for Phil Moody and Shree Summerlin, 510 & 508 South 8th Street, C-2, GC-S, requesting a variance of 9 parking spaces from the minimum 24 off-street parking spaces to 16 parking spaces for a mixed use commercial & residential development on a 35,000 square foot property.

Mr. Mosley presented the staff report to the Zoning Board for the requested variance of 9 parking spaces from the minimum 24 off-street parking spaces to 16 parking spaces for a mixed use commercial & residential development on a 35,000 square foot property located at 510 and 508 South 8th Street. He stated that staff believes that this request would allow the development to be more in character to the existing neighborhood. Staff recommends approval of the variance. If granted by the ZBA, the use would still require Historic Preservation Commission

and Conditional Use approval for the structures.

Chairman Payne opened the public hearing.

Jeremy Clark, authorized applicant, stated that they are able to meet the parking lot requirements but that he believes the requirements are excessive for the intended use, which is lower impact. He noted that the parking reduction is not requested to increase building square footage, but to increase plantable area on the site, which offers a better development for the neighborhood.

Mr. Hilyer asked if the tenants for the lower space are going to be office space?

Jeremy Clark stated that the intention is to have a small grab-and-go bodega and a candle shop.

Mr. Mosley stated that the intention is for the owners that live in building three to occupy the office space.

Mr. Hilyer asked if the residents will have a garage?

Mr. Mosley stated that they will have a garage and a driveway.

Mrs. Miller asked about the greenspace on the site plan.

Jeremy Clark stated that they have a courtyard planned there and that it is intended for the public as well as the tenants.

Mrs. Miller asked if buildings 1, 2, and 5 will be accessible from the street as well as the greenspace?

Jeremy Clark stated yes, that they want to encourage foot traffic.

Aaron Bushey, 408 South 8th Street, stated that the street is already congested and that there is a lot of street parking. He stated that this is a denser project and that he is concerned about customers parking on the street because there is no public parking nearby. He requested that they be required to have 24 parking spaces.

Jeremy Clark stated that the purpose of the Zoning Board is to intelligently apply the code in circumstances that don't meet the exact situation for which they were written. He stated that he has not seen a lot of on-street parking on that side of South 8th Street. He stated that this project would be worse if the parking requirements are enforced.

Aaron Bushey stated that the design for the properties today may not be what it ends up becoming. He stated that once it's set up it will be much harder to alter and that he would like to see the Board err on the side of caution.

Chairman Payne closed the public hearing.

Mrs. George asked if this is public parking?

Mr. Mosley stated that this is all private parking limited to whoever the private property owner extends it to.

Mrs. George asked if the single family residence parking is included in this request?

Mr. Mosley stated that they have not included the single family residence in the variance request because they are required to have two spaces per single family residence, and they are meeting those requirements.

Mrs. George asked if there are any future plans for public parking downtown? She noted that many people still use their cars and if one of the uses at this location is a café or something similar, it would be a lot more vehicles.

Mr. Mosley stated that the standards give a baseline for parking. He stated that if the use is changed to something like a restaurant or a bodega, it would have a higher parking requirement than what office space has. He noted that if there isn't enough parking, certain uses are not allowed. He stated that the City has not done a comprehensive downtown parking study, but that there have been parking surveys done. He noted that it is different across downtown and at different times of the day and week. He stated that, according to the City Engineer, on-street parking is legal on 8th Street, and it would take action by the City Council to make that not be allowed. He noted that on-street parking slows down traffic.

Mrs. George asked if there is a plan to do a comprehensive parking study downtown?

Mr. Mosley stated that he was not aware of one.

Mr. Hilyer stated that he was concerned about there being enough parking for the commercial use and noted that, depending on the use, it could get busy.

Mrs. Harvis asked what number of spots are dedicated for the residential space?

Mr. Mosley stated that staff has not seen anything that says the spaces will be marked or dedicated in any way. He stated that the ordinance requires two spaces per residential unit. He stated that apartment units typically utilize less parking because there are only one or two people living there and in most cases the residential parking and commercial parking will be used at different times. He stated that there is only one 2-bedroom apartment shown here and the rest are 1-bedroom apartments, so it is more likely that only one person will be living there.

Mrs. George stated that if everyone is home and there are two cars per unit, that takes up most of the parking.

Mr. Mosley stated that the commercial parking would still have 8 spaces available and there are 5 commercial units.

Jeremy Clark stated that two of the commercial units are 300 square foot spaces. He noted that there will be some functional limits that the free market is going to impose on what can go in there. He stated that these are all going to be low intensity uses. He noted that the Planning Commission has some authority over what can go there and some uses are conditional.

Mr. Mosley stated that, from an administrative standpoint, staff wouldn't allow a heavy user like a restaurant or a convenience store to go there because of the parking limitations.

Jeremy Clark stated that in regard to the dedicated parking, they plan on offering one dedicated parking space for each residential unit and the rest will be first come, first served.

Chairman Payne asked Mr. Mosley to restate the staff recommendation.

Mr. Mosley restated the staff recommendation.

Mrs. George stated that this is commercial but that there is residential on this street and that she felt like it would be congested there without all 24 parking spaces.

Mr. Mosley asked if the Board would like to give temporary approval with the condition that the parking requirements be reevaluated one year post construction?

Mrs. Harvis stated that she felt this was something that should be handled now.

Mr. Hilyer stated that he agreed.

Mrs. Miller made a motion to approve the variance of 9 parking spaces from the minimum 24 off-street parking spaces to 16 parking spaces.

Motion failed for lack of a second.

Mrs. Harvis made a motion to deny the variance of 9 parking spaces from the minimum 24 off-street parking spaces to 16 parking spaces.

Mr. Hilyer asked if a lesser variance could be approved?

Mr. Mosley stated yes.

Mrs. Harvis rescinded her motion and stated that she felt a lesser variance was a good middle ground.

Motion to approve a variance of 4 parking spaces from the minimum 24 off-street parking spaces to 20 parking spaces

RESULT:	Passed
MOVER:	Brandon Hilyer
SECONDER:	Raven Harvis
DISCUSSION:	Mrs. George asked if this would set a precedent?
	Mr. Mosley stated that this case was unique and would not set a precedent for future cases.
AYES:	Miller, Hilyer, Harvis, Payne
NAYS:	George
ABSTAIN:	None

2. Brett Basquin, Foresite Group LLC, representative for QuikTrip Corporation, 920 Columbus Parkway, C-3, GC-P, requesting an 11.7% variance to increase the 70% maximum impervious surface ratio from 70% to 81.7% to construct a QT gas station and convenience store.

Mr. Mosley presented the staff report to the Zoning Board for the requested 11.7% variance to increase the 70% maximum impervious surface ratio from 70% to 81.7% to construct a QT gas station and convenience store at 920 Columbus Parkway. He stated that while staff does acknowledge some benefits of this use and potential mitigating conditions, we do not feel at this time that there is an existing hardship to support recommending a variance to exceed the 70% maximum impervious surface requirement.

Chairman Payne opened the public hearing.

Brett Basquin, authorized applicant, stated that the existing site is non-conforming and is over 90% impervious. He stated that it is paved from property line to property line with mostly no landscape buffers. He stated that the proposed elevations are very similar to the QuikTrip that is off Gateway Drive. He stated that QuikTrip is the gold standard in regard to what it looks like, how it's operated, and the service provided. He noted that the fuel canopies are bricked and that there is onsite and offsite landscaping. He stated that the code requires 70% impervious surface area, whether it is a gas station, single family residential, or an office park. He noted that their proposed landscaping far exceeds the required amount of landscaping and that the site will utilize concrete paving which will be more reflective and keep the heat down. He noted that they will have an underground detention system that will collect the stormwater and meet the current stormwater regulations.

He noted that they are redeveloping an existing site in an area that is prime for redevelopment. He stated that access to the site has been one of the controlling factors for how this site will work. He stated that they have been working with ALDOT, the City, and the adjacent shopping center for access. He noted that this is the last step before they are able to get final approval for the right in off of Fox Run, and they are providing cross-access with the adjacent property owner. He stated that the back of the store is typically wide enough for two-way traffic for delivery trucks and access to the dumpster, but on this site it has been reduced some to meet the buffering and landscaping requirements on the front. He stated that there are some restraints due to the topography of the site. He stated that in a fueling situation they try not to use pervious pavers to prevent fuel from getting into the groundwater, but that there are three spaces in the back which could potentially be pervious pavers. He stated that their top priority is the safety of their customers.

Mrs. Miller asked what percentage the impervious surface ration would be if they used pervious pavers on those three spots?

Brett Basquin stated that it would go from 81.7% to 81%

Mr. Mosley stated that the Engineering Department agrees that pervious pavers should not be used near fueling stations due to the risk of fuel getting into the water table.

Mrs. Miller asked if there is a difference in the stormwater regulations for a gas station compared to other uses?

Michael Burk, applicant, stated that convenience stores are considered a hot-spot and that gives them the ability to request to modify the stormwater requirements in order to direct the stormwater towards a containment unit so that water can be removed in the event of a spill. He noted that the concrete that is put down at all of their facilities is at a greater grade than what ALDOT uses on the interstate.

Mr. Hilyer stated that he has been to QuikTrips and they are all clean and high quality. He stated that traffic in this area is very busy and that he didn't see how QuikTrip could cut out parking spaces or other space to meet the impervious surface ratio. He stated that the company culture is to be the best.

Mr. Anthony asked if the impervious surface ration of Western Sizzilin was grandfathered in?

Mr. Mosley stated that it was.

Chairman Payne closed the public hearing.

Motion to grant the 11.7% variance to increase the 70% maximum impervious surface ratio from 70% to 81.7%

RESULT: Passed
MOVER: Raven Harvis
SECONDER: Brandon Hilyer
AYES: Miller, Hilyer, Harvis, George, Payne
NAYS: None
ABSTAIN: None

3. Bernard Jackson, representative for Barbara Jones, 1900 South Long Street, C-2, requesting a 2-foot side yard setback variance from the 10-foot side yard setback requirement for a 10'x18' addition.

Mr. Mosley presented the staff report to the Zoning Board for the requested 2-foot side yard setback variance from the 10-foot side yard setback requirement for a 10'x18' addition located at 1900 South Long Street. He stated that most dwellings and buildings in the vicinity of the applicant's property are legal conforming and do not meet the current minimum setbacks on the front, side, or rear yard. Therefore, a two foot side yard variance is not out of character with other properties in the neighborhood. The site plan shows the addition 10 feet from the side property line. However, the addition was erroneously built 8 feet from the side property line. Staff understands that approving a two foot setback variance can be considered minimal, and requiring the block wall removed and rebuilt just two feet from its current location could be excessive and burdensome. Staff does not have a strong recommendation concerning this request and appeals to the Zoning Board for a decision.

Chairman Payne opened the public hearing.

Bernard Jackson, authorized applicant, apologized for the error on the site plan that was given previously, and he stated that they never intentionally deceived anyone about the setback. He stated that they had always intended to do an 18-foot building and that he had recently had eye surgery. He stated that he is not the builder and that, had they known there was a need for a side variance, they would have requested it the last time they came to the Zoning Board. He noted that they have been waiting to start again after being stopped.

Chairman Payne closed the public hearing.

Motion to grant the 2-foot side yard setback variance from the 10-foot side yard setback requirement for a 10'x18' addition

RESULT: Passed
MOVER: Brandon Hilyer
SECONDER: Angela George
AYES: Miller, Hilyer, Harvis, George, Payne
NAYS: None
ABSTAIN: None

C. ADJOURN

Motion to adjourn at 10:19 a.m.

RESULT: Passed
MOVER: Raven Harvis
SECONDER: Tipi Miller

AYES:	Miller, Hilyer, Harvis, George, Payne
NAYS:	None
ABSTAIN:	None

_____ Wilbert Payne, Chairman

_____ Matt Mosley, Secretary

CITY OF OPELIKA - BZA
STAFF REPORT
January 9, 2024

Applicant: Kenneth Riley, authorized representative for Fannie Mae Mortgage Company

Property: 1626 3rd Avenue (subject property)

Existing Zone: R-5

Request: Side Yard on Street and Side Yard Setback Variance

The applicant desires to build a single family home on a 49'x 162' vacant lot on the corner of 3rd Avenue and N 17th street. On corner lots a house faces two streets, so a minimum 'side yard on street' setback (17th Street) and a front setback (3rd Avenue) is required. The applicant is requesting an 8 foot variance from the minimum 20 foot 'side yard on street' (17th Street) setback requirement and a 5 foot side yard variance from the 10 foot side yard setback requirement.

The subject property is in an older residential neighborhood that is zoned R-5 (high density residential). The neighborhood area are those lots fronting on 3rd Avenue and 4th Avenue between Pleasant Drive and N 16th Street. There are 32 lots for single family home lots in this area: 28 lots have single family homes, and 4 lots are vacant. Years ago, a single family home (21'x 42') was moved from the Pepperell Mill Village neighborhood to the applicant's lot; the house has been removed and the lot is vacant. Six apartment buildings with six apartment units in each building (36 units total) are one or two blocks from the subject property. Across 3rd Avenue from the subject property is a C-2 (commercial) zoning district that fronts on Pepperell Parkway.

In the past year, new housing units have been completed in this neighborhood. Three duplexes (or six dwelling units) at 1,000 square feet each unit were constructed. Also, renovations to at least two single family homes were completed. One home renovated is next door to the applicant's property. The new dwellings constructed and improvements to existing homes provide affordable housing opportunities. The new construction will likely have a positive impact on home values in this neighborhood.

A review of setbacks for the existing single family homes in this neighborhood provides that 29 of 32 homes do not meet the current minimum setback¹ in at least one yard. For example,

¹ R-5 minimum setbacks: Front yard = 25', Side = 1', Rear = 20', Side Yard on Street = 20'

19 homes do not meet the minimum 25 foot front setback; the homes are setback between 8 feet and 20 feet. These homes were built between 1925 to 1960 when there was no minimum setback requirements or homes were setback according to general guidelines. The homes are legal non-conforming concerning minimum setbacks.

Also, 15 single family home lots are less than the minimum 60' lot width required in the R-5 zone. The lot width for the 32 single family homes range from 42' to 60'. The width of two corner lots near the subject property (ex. corner of 4th Street and N 17th Street) are 56 feet and 58 feet wide.² The applicant's corner lot is 49 feet.

Recommendation

The applicant's corner lot property is 49 feet wide or 11 feet shorter than the minimum 60 foot lot width. The lot is legal nonconforming concerning lot width. A home could be constructed on the applicant's property and meet the minimum 20 foot 'side yard on street' and the 10 foot side yard setbacks, however the width of the home would only be 19 feet. From the 28 existing single family homes in this neighborhood, the smallest width home is 24 feet wide (three homes are 24 feet wide). The three homes were built in 1925 at 747, 752, and 873 square feet. The width of the remaining 25 homes range from 28 feet to 39 feet, and 1,100 sf to 1,500 sf. For a corner lot, the applicant's lot is long and narrow – 49' x 162' like most lots along 3rd Avenue. The applicant desires to construct a larger one-story home (28.7' x 60.2' = 1,728 sf) that will be for sale not constructed for rental property.

As stated in this report, most of the existing homes are nonconforming concerning setbacks and many lots nonconforming in lot width. Staff does not believe approving the variance request would affect the character of the neighborhood or have a special impact on the neighborhood. The proposed home would probably be more in harmony with the neighborhood if the variance request was approved and provide an affordable housing opportunity. The house on the corner lot at 4th Avenue and 17th Street is about 14 feet from the property line along 17th Street. **Staff recommends approval for an 8 foot variance from the minimum 20 foot 'side yard on street' setback (17th Street) requirement and a 5 foot side yard variance from the 10 foot side yard setback requirement.**

² The lot width on corner lots (facing two streets) are platted wider than a lot facing one street so the corner lot can meet the minimum front setback and side-yard-on-street setback.

000407-2023



APPLICATION FOR VARIANCE (Section 4.2A)

PLANNING DEPARTMENT

700 Fox Trail, Opelika, AL 36801
(334) 705-5156 Fax (334) 705-5159

DATE: 12-12-23	Zoning Board of Adjustment Meeting Date: 1-9-24
Case Number:	Meeting Deadline: 12-19-23

PART I. OWNER / APPLICANT INFORMATION

256-749-0907
 Fannie mae 122 Calhoun St Alex City AL 35010
 Owner Name Address Phone
 Kenneth Riley 122 Calhoun St Alex City, AL 35010
 Agent Name (if applicable) Address Phone

PART II. PARCEL INFORMATION

Street Address: 1626 3rd Ave Opelika, AL 36801
 Current Zoning: R5
 Current Land Use: Vacant
 Type of Variance Sought: _____ Sign _____ Parking ☒ Setback (side) _____ Other

PART III. Provide a Brief Description and Reason for the Variance (attach a zoning map or site plan) The lot is too narrow, if side yard setbacks are enforced, to build a functional dwelling house.

Setback	Required	Proposed	Amount of Variance
Front	25		
Side	20	12.95	7.05
Side	10	5	5
Rear	20		

PART IV.

1) Are there extraordinary and/or exceptional conditions to the particular property, which make a variance necessary? Since the lot is a small corner lot, a functional a functional house cannot be constructed because of the side yard restrictions.

RILEY VARIANCE REQUEST
1626 3RD AVENUE
SETBACK VARIANCES



The applicant is requesting an 8 foot variance from the minimum 20 foot side yard on street setback and a 5 foot variance from the minimum side yard setback. The applicant is replacing a home on a nonconforming lot of record.

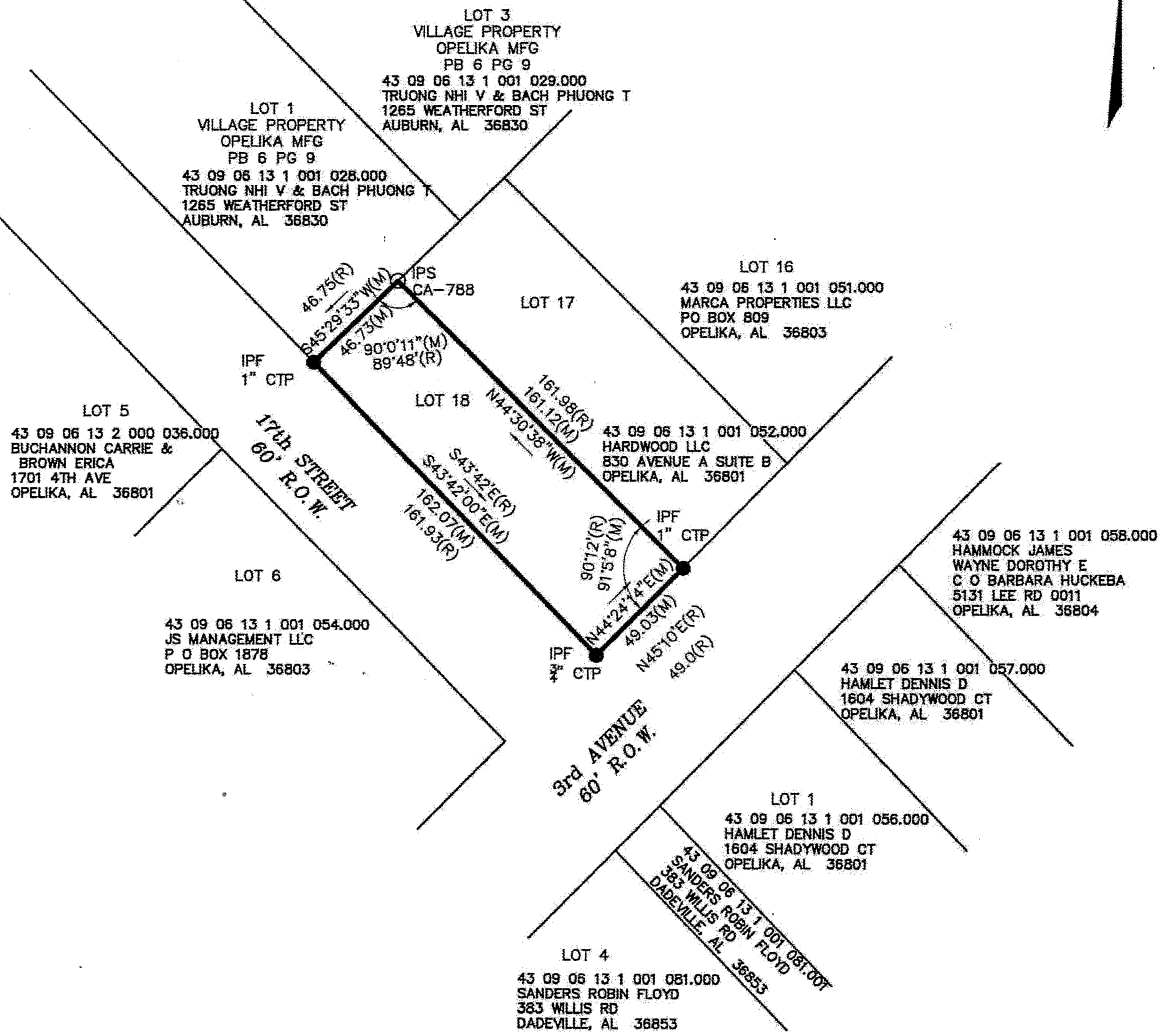


Subject Property

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.

BOUNDARY SURVEY FOR: KENNETH RILEY

LOT 18
VILLAGE PROPERTY OF OPELIKA MANUFACTURING GROUP
1626 3rd AVENUE
OPELIKA, LEE COUNTY, ALABAMA



NOTES:

- SOURCE OF INFORMATION: PLAT BOOK 4, PAGE 49.
- BASIS OF BEARING: WEST LINE OF LOT 18. (S43°42'00"E)
- DATE OF FIELD SURVEY: 11-16-2023; DATE OF OFFICE WORK: 11-20-2023.

I, MICHAEL T. MAHER, A REGISTERED LAND SURVEYOR IN THE STATE OF ALABAMA, HEREBY STATE THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE CURRENT STANDARDS OF PRACTICE FOR SURVEYING IN THE STATE OF ALABAMA TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

MICHAEL T. MAHER
PLS NO. 29993

DATE: 11/20/23

NOT A CERTIFIED SURVEY UNLESS SIGNED AND STAMPED WITH MY SEAL.

Drawn By:

ANW

Scale:

1"=60'

File Name:

23-0781

Date:

11-20-2023

**PRECISION
SURVEYING**

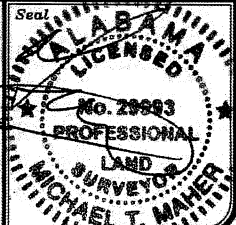
2124 Moores Mill Rd.
Suite 110
Auburn, Alabama 36830
Ph. (334-821-0105)

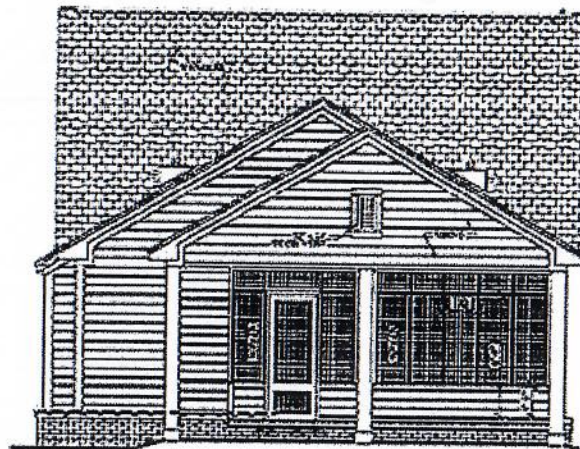
60 30 0 60 120

SCALE IN FEET

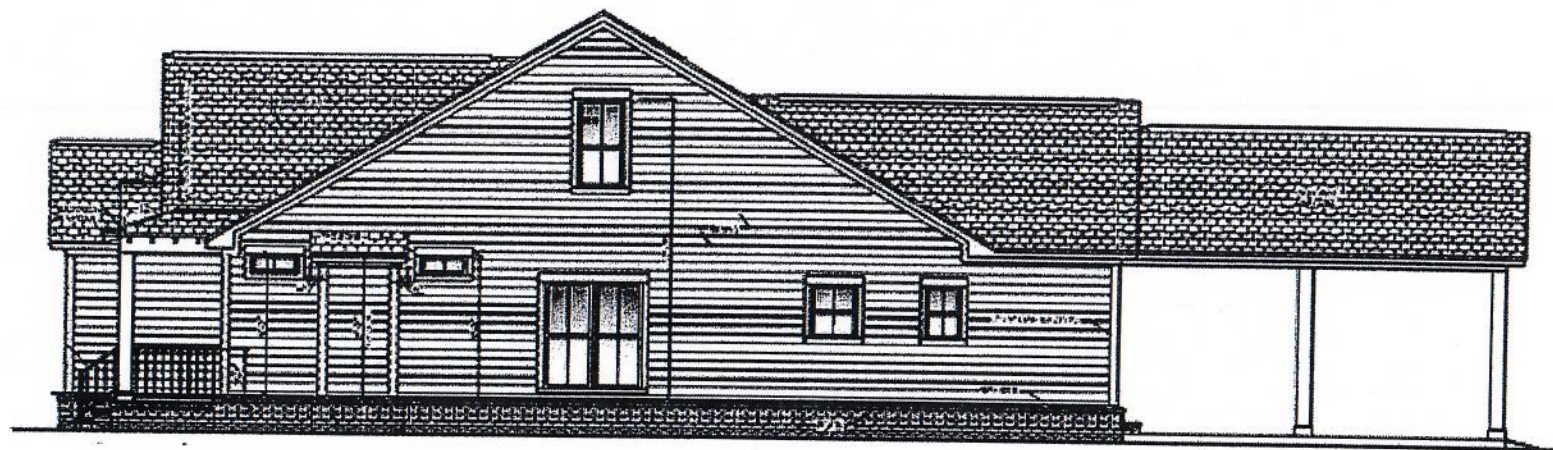
LEGEND

- (M) = MEASURED
- (R) = RECORDED
- OTF = OPEN TOP PIPE
- CTP = CRIMPED TOP PIPE
- IPF = IRON PIN FOUND
- IPS = IRON PIN SET (CA-788)
- CA-788 = PRECISION SURVEYING
- = IRON PIN FOUND
- = 1/2" REBAR SET (CA-788)
- = HUB SET
- △ = CALCULATED POINT
- = CONCRETE MONUMENT
- ⚡ = POWER POLE
- x-x- = WIRE FENCE
- // -// = WOOD FENCE
- = CHAIN LINK FENCE

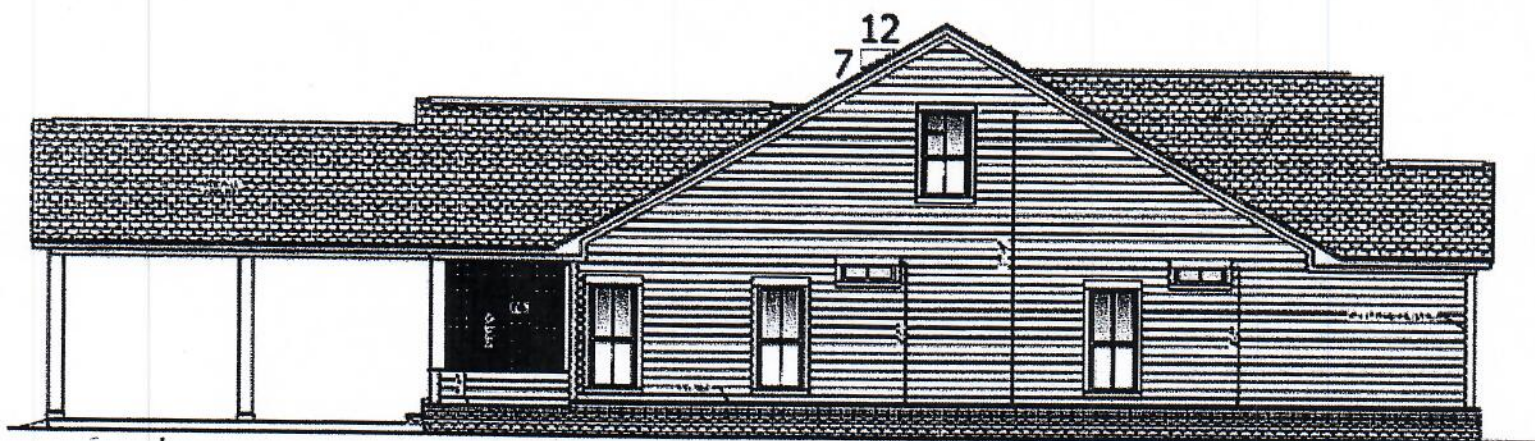




REAR ELEVATION



RIGHT ELEVATION



LEFT ELEVATION



Front Elevation facing 3rd Avenue

HOUSE TO BE REMOVED



09/12/2023

CORNER OF NEW HOUSE



17th St

12/11/2023

CORNER of NEW HOUSE

