

BZA Packet

September 15, 2015

Hello All,

Enclosed please find your packet for the meeting of September 21, 2015.

We have:

- 2 extensions
- 4 new cases

If you receive any citizen inquiries regarding these cases the proposed plans may be viewed by going to:

www.mtnbrook.org

- Departments
- Planning
- Pending/Recent Agendas and Cases
- Board of Zoning Adjustment Agendas and Cases
- September 21, 2015

If you have any questions about the cases please don't hesitate to give me a call at 802-3821 or send me an email at hazend@mtnbrook.org ...

Looking forward to seeing you on Monday!

Dana

CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
AGENDA
5:00 P.M.
SEPTEMBER 21, 2015

NOTICE

Any variance which is granted today expires and becomes null and void six months from today unless construction is begun in less than six months from today on the project for which the variance is granted. If construction will not be started within six months from today, the applicant may come back in five months and ask for a six-months extension, which the Board normally grants.

Any variance which is granted, regardless of the generality of the language of the motion granting the variance, must be construed in connection with, and limited by, the request of the applicant, including all diagrams, plats, pictures and surveys submitted to this Board before and during the public hearing on the variance application.

-
- 1 Approval of Minutes: August 17, 2015

EXTENSIONS

2. **4170: William and Lee Morgan, owners, request variances from the terms of the Zoning Regulations to allow additions to an existing single family dwelling to 14.9 feet from the front property line (Winthrop Avenue) and 12 feet from the rear property line (south); both in lieu of the required 35 feet. – 9 Winthrop Avenue**
3. **4146: Patrick West, owner, requests variances from the terms of the Zoning Regulations to allow the construction of a new single family dwelling to be built in accordance with the secondary front setbacks allowed for narrow, non-conforming lots per Section 129-53 (b)(4); namely 13 feet for any portion of the building less than 22 feet high and 17 feet for any portion over 22 feet high, in lieu of the required 35 from the secondary front property line (Eastis Street). – 1100 Euclid Avenue**

NEW CASES

4. **A-15-05: Chester and Tiffany Lewis, owners, request a variance from the terms of the Zoning Regulations to allow an addition to the rear of a single family dwelling to match the existing house, 10.3 feet from the secondary front (Elm Street) in lieu of the required 13/17 feet (first/second floor). – 200 Dexter Avenue**
5. **A-15-06: Richard Gregg, owner, requests a variance from the terms of the Zoning Regulations to allow the construction of an uncovered deck to be 29 feet from the secondary front property line (Overton Road) in lieu of the required 40 feet. – 3298 Overton Trail**

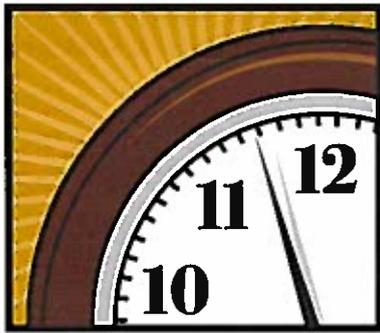
6. **A-15-07: George and Kristen Carbonie**, owners, request a variance from the terms of the Zoning Regulations to allow an addition to an existing single family dwelling to be 12.5 feet from the rear property line (north) in lieu of the required 35 feet. – **816 Beech Court**

7. **A-15-08: Troy Rhone**, owner, requests variances from the terms of the Zoning Regulations to allow additions to an existing single family dwelling to be 4.5 feet from the side property line (west) in lieu of the required 15 feet, and 6 feet from the secondary front property line (Montevallo Road) in lieu of the required 40 feet. Also, to allow an increase in lot coverage from the existing 36% (1,814 sf) to 37.4% (1,847 sf). – **98 Country Club Boulevard**

8. Next Meeting: October 19, 2015

9. Adjournment

MINUTES



**CITY OF MOUNTAIN BROOK
BOARD OF ZONING ADJUSTMENT
MINUTES
AUGUST 17, 2015**

The regular meeting of the City of Mountain Brook Board of Zoning Adjustment was held on Monday, August 17, 2015, at 5:00 p.m. in the Council Chamber at Mountain Brook City Hall.

Present were Chairman Patrick Higginbotham, Co-Chairman William Hereford, Henry Lapidus, Norman Orr, Richard Simonton, and Chris Mitchell. Also present were City Council Liaison Virginia Smith, Director of Planning, Building & Sustainability Dana Hazen, Building Official Glen Merchant and Administrative Assistant Tammy Graham. Rhett Love was absent. No changes were made to the presented agenda.

Chairman Higginbotham asked if all adjacent property owners in each of the cases on the agenda had received legal notice of this hearing. Mrs. Graham replied that, based on the information supplied by the appellants, they had been notified.

Mr. Higginbotham stated that any variance which is granted today expires and becomes null and void six months from today, unless construction is begun in less than six months from today on the project for which the variance is granted. If construction will not be started within six months from today, the applicant may come back in five months and ask for a six-month extension.

=====

1. **Approval of Minutes: July 20, 2015**

Mr. Hereford moved approval of the minutes as submitted. Mr. Lapidus seconded the motion and, when put to a vote, the minutes were unanimously approved as presented.

NEW CASES

2. **A-15-01: Russell Doyle, owner, requests a variance from the terms of the Zoning Regulations to allow the construction of a new single family dwelling, the screen porch of which is proposed to be 32.92 feet from the rear property line (east) in lieu of the required 40 feet. – 3801 Buckingham Place**

Mr. Russell Doyle, property owner, 3801 Buckingham Place:

- Bluestone or flagstone will be used for the flooring and will flow throughout the space.
- The porch elevation is approximately 4" lower than the house. It is not on grade.
- The house will probably have shake type roofing and the breezeway will

have metal roofing. The slope of the roof on breezeway will be lower to give a detached carriage-house look, but will actually be attached.

- Rear elevation is not known at this time.

Chairman Higginbotham stated that if it is decided to enclose the porch, the matter would have to come back before the BZA.

The Board acknowledged hardship in use of the property because the lot is small for Residential A zoning and is shallow.

There were no public comments.

Mr. Hereford moved approval of the variance as submitted. Mr. Orr seconded the motion and, when put to a vote, the results were as follows:

Ayes: Higginbotham
Hereford
Lapidus
Simonton
Orr

Nays: None

The requested variance stood approved by unanimous vote.

3. **A-15-03: NJK, LLC, owner**, requests variances from the terms of the Zoning Regulations to allow a pool to be 4.65 feet from the rear property line (west) and 9.18 feet from the secondary front property line (Montclair Road), both in lieu of the required 10 feet, and to be located within the secondary front yard (Montclair Road), in lieu of the requirement to be behind the front building line. - **102 Calton Lane**

Charles Kessler, developer and builder:

- Because of engineering errors on the presented survey regarding the setbacks for the pool, he asked to amend the variance request submitted. He stated there are 10+ feet on both sides as required. The only variance request now is to locate the pool within the secondary front yard, in lieu of the requirement to be behind the front building line.
- The lot presents a hardship because it is a corner lot and small, leaving only the second front as a possible pool area.
- This lot backs up to an office building on Montclair Road. There is an 8' wall and shrubbery will be added; that, along with the additional elevation of the property from the street, will shield visibility of the pool from all angles.

There were no public comments.

Mr. Hereford moved approval of the variance as amended. Mr. Simonton seconded the motion and, when put to a vote, the results were as follows:

Ayes: Higginbotham
Hereford
Lapidus
Simonton
Orr

Nays: None

The amended variance stood approved by unanimous vote.

4. **A-15-04: Angela Wood, applicant,** requests a variance from the terms of the Zoning Regulations to allow an existing tennis court to be 8 feet from the newly-established rear property line (southeast) (Planning Commission Case 1961) in lieu of the required 40 feet. – **3097 Salisbury Road**

Chairman Higginbotham announced that Mr. Orr has recused himself from voting on this matter. Supernumerary Chris Mitchell will vote in his place.

David Wood, owner, 3097 Salisbury Road:

- Would like to purchase tennis court property from David and Martha Elliott, 3212 Rockledge Road, which borders his property.
- The Planning Commission approved a request to resurvey the properties to include 75 feet from Rockledge to Salisbury, with the condition of obtaining approval by the BZA for a variance for the new property line to be 8 feet from the existing tennis court.
- Tennis court property is approximately 30 feet up a rock cliff, making use by present owner difficult; elevation of this area is more similar to that of Salisbury.

David Elliott, owner of 3212 Rockledge Road and co-applicant for the variance, stated he is in agreement. There were no public comments.

Mr. Hereford moved approval of the variance as submitted. Mr. Lapidus seconded the motion and, when put to a vote, the results were as follows:

Ayes: Higginbotham
Hereford
Lapidus
Simonton
Mitchell

Nays: None

The requested variance stood approved by unanimous vote.

It was noted that Case A-15-02 was not on the agenda because the applicant withdrew.

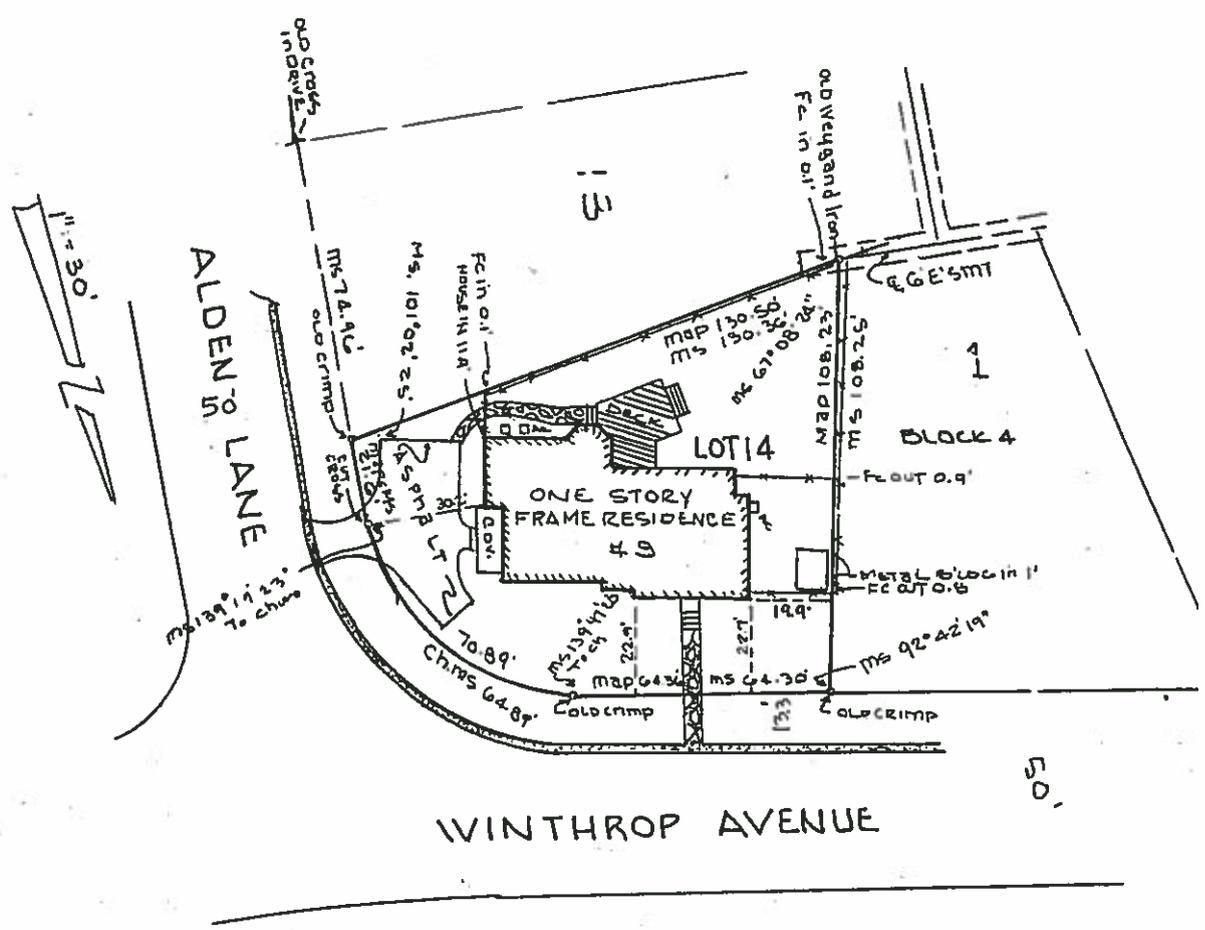
5. **Adjournment:**

There being no further business to come before the Board at this time, the meeting was adjourned at 5:25 p.m.

Tammy Graham, Administrative Assistant

Extension

Variance Approved March 2015



LEGEND							
ASP	ASPHALT	HW	HEADWALL	oLGT	LIGHT COVERED	—	ANCHOR
BLDG	BUILDING	WH	MINIMUM	COV	COVERED	R	RADIUS
CALC	CALCULATED	MH	MANHOLE	CON	CONCRETE	R.O.W.	RIGHT OF WAY
MEAS	MEASURED	OH	OVERHANG	W	WALL	SAW	SANITARY
CH	CHORD	—	POWER LINE	CON	CONCRETE	STM	STORM
LNC	LINE CHORD	—	PAVEMENT	W	WALL	UTL	UTILITY
Δ	DEFLECTION	PVMT	WITH	—X—	FENCE	AC	ACRES
ESMT	EASEMENT	W/TAN	TANGENT	POR	PORCH	S.F.	SQUARE FEET
		RES	RESIDENCE			℄	CENTERLINE

STATE OF ALABAMA
JEFFERSON COUNTY

"Closing Survey"

I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 14 Block 4 COLONIAL HILLS as recorded in Map Volume 18 Page 23, in the Office of the Judge of Probate, Jefferson County, Alabama; that there are no rights-of-way, easements or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, (visible on the surface) on or over said premises except as shown; that there are no encroachments on said lot except as shown and that improvements are located as shown above. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief, according to my survey of SEPTEMBER 23, 2014. Survey invalid if not sealed in red.

Order No. 76854
Purchaser:
Address: 8 WINTHROP AVE

Ray Weygand, Reg. L.S. #24973
189 Oxnard Road Homewood, AL 35209
Phone: (205) 942-0088 Fax: (205) 942-0087
Copyright ©

Note: (a) No title search of the public records has been performed by this firm and land shown hereon was not abstracted for easements and/or rights-of-way, recorded or unrecorded. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the public records of said county and/or city. (b) All bearings and/or angles, are dead/referenced map and actual unless otherwise noted. (c) Underground portions of foundations, footings, and/or other underground structures, utilities, cemeteries or burial sites were not located unless otherwise noted. We do not look for underground sewers or fire manhole covers. (d) The shown north arrow is based on dead/referenced map. (e) This survey is not transferable and is only good for 9 years and only good to the person(s) that pays for it at time of survey. (f) Easements not shown on record map are not shown above.

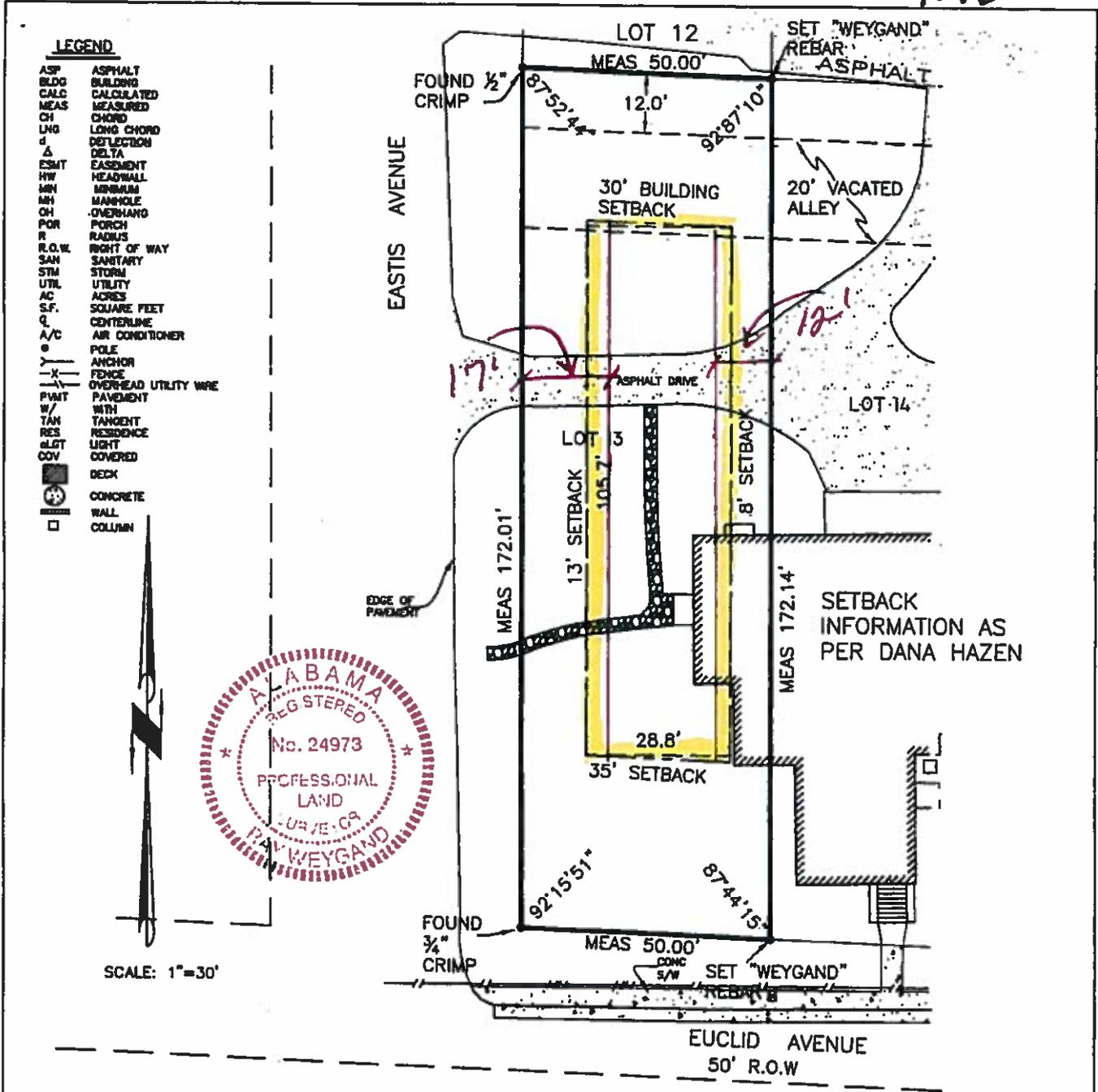
Extension (2nd)

Variance approved October 2014

1st Extension approved March 2015

Extension

4146



LEGEND

ASP	ASPHALT
BLDG	BUILDING
CALC	CALCULATED
MEAS	MEASURED
CH	CHORD
LNG	LONG CHORD
d	DEFLECTION
Δ	DELTA
ESMT	EASEMENT
HW	HEADWALL
MN	MANHOLE
OH	OVERHANG
POR	PORCH
R	RADIUS
R.O.W.	RIGHT OF WAY
SAN	SANITARY
STM	STORM
UTIL	UTILITY
AC	ACRES
S.F.	SQUARE FEET
C/L	CENTERLINE
A/C	AIR CONDITIONER
○	POLE
Y	ANCHOR
X	FENCE
—X—	OVERHEAD UTILITY WIRE
—	PAVEMENT
W/	WITH
TAN	TANGENT
RES	RESIDENCE
BLT	LIGHT
COV	COVERED
■	DECK
○	CONCRETE WALL
□	COLUMN



SCALE: 1"=30'

STATE OF ALABAMA
JEFFERSON COUNTY

"Closing Survey"

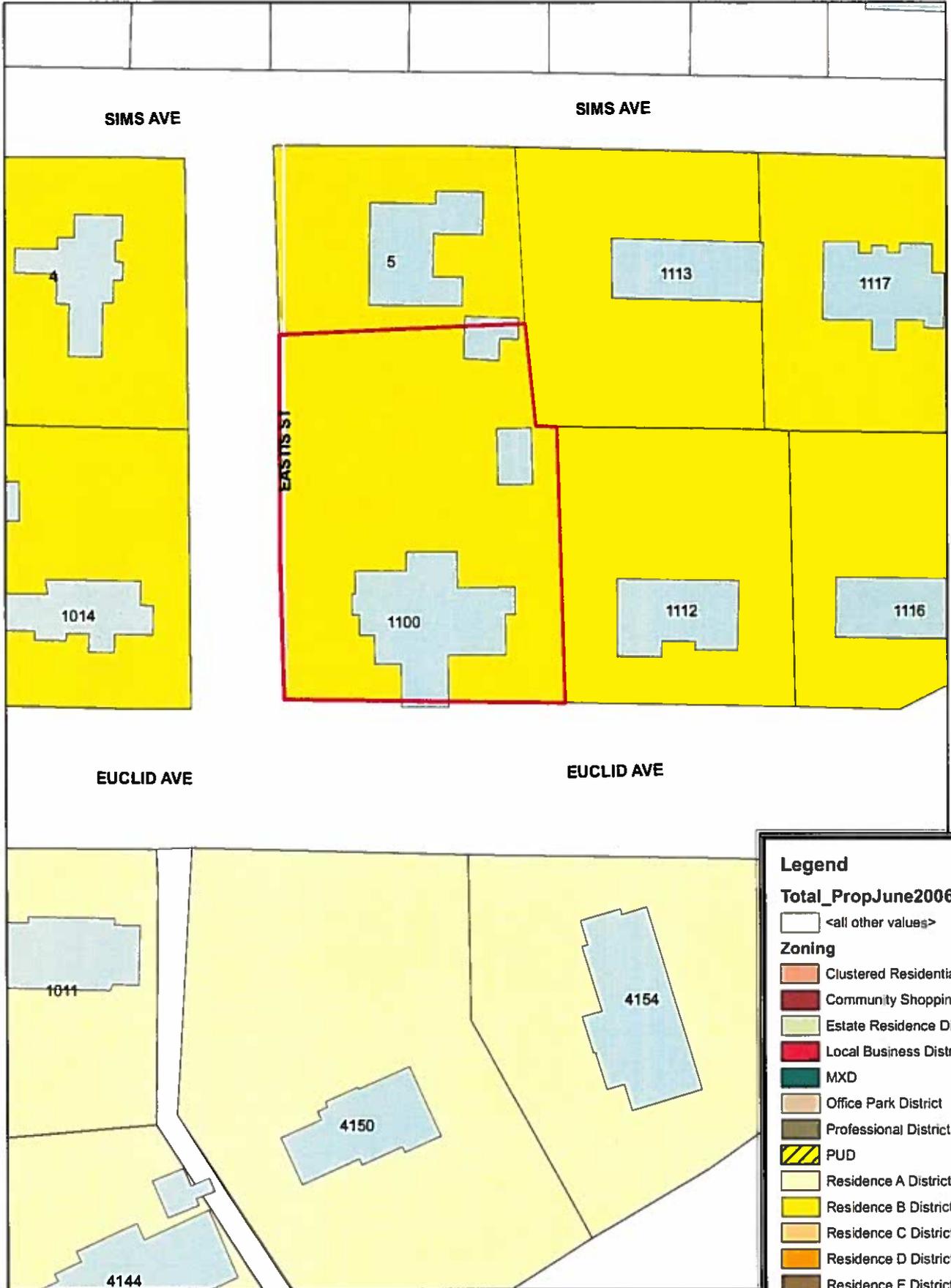
I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed the legal description as shown above; that there are no rights-of-way, easements or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, (visible on the surface) on or over said premises except as shown; that there are no encroachments on said lot except as shown and that improvements are located as shown above. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief; according to my survey of SEPTEMBER 17, 2014. Survey invalid if not sealed in red.

LEGAL DESCRIPTION:

Lot 13, Block 1, according to the Survey of McElwaine, as recorded in Map Book 3, page 47, in the Probate Office of Jefferson County, Alabama, Birmingham Division. And also that part of a vacated alley North of Lot 13, Block 1, according to the Survey of McElwaine, as recorded in Map Book 3, page 47, in the Probate Office of Jefferson County, Alabama, Birmingham Division. And also the South 12 feet of Lot 12, Block 1, according to the Survey of McElwaine, as recorded in Map Book 3, page 47, in the Probate Office of Jefferson County, Alabama, Birmingham Division

Extension

4146



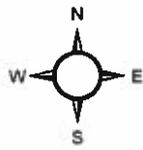
Legend

Total_PropJune2006

- <all other values>

Zoning

- Clustering Residential
- Community Shopping
- Estate Residence District
- Local Business District
- MXD
- Office Park District
- Professional District
- PUD
- Residence A District
- Residence B District
- Residence C District
- Residence D District
- Residence E District
- Residence F District
- Recreation District
- RID
- Rec-2



Variance Application - Part I

Project Data

Address of Subject Property 200 Dexter Ave.
 Zoning Classification C
 Name of Property Owner(s) Chester and Tiffany Lewis
 Phone Number 205-335-9299 Email ChesterandTiffany@upghoo.com
 Name of Surveyor Surveying Solutions - David Entvekin
 Phone Number 991-8965 Email _____
 Name of Architect (if applicable) Paul Gilbert
 Phone Number 205-995-0070 Email pgddi@outlook.com

Property owner or representative agent must be present at hearing

Please **fill in only applicable** project information (relating directly to the variance request(s)):

	Zoning Code Requirement	Existing Development	Proposed Development
Lot Area (sf)			
Lot Width (ft)			
Front Setback (ft) <i>primary</i>			
Front Setback (ft) <i>secondary</i>			
Right Side Setback			
Left Side Setback			
Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →	13' 17'	10.3 10.3	10.3 10.3
Rear Setback (ft)			
Lot Coverage (%)			
Building Height (ft)			
Other			
Other			



A-15-05



Report to the Board of Zoning Adjustment

A-15-05

Petition Summary

Request to allow an addition to the rear of a single family dwelling to match the existing house, 10.3 feet from the secondary front (Elm Street) in lieu of the required 13/17 feet (first/second floor).

Background/Analysis

In 2006 a variance was granted to allow the construction of a new single family dwelling and detached garage to be 10 feet from the secondary front (in lieu of what was then required to be 35 feet). The request, today, is to allow an extension of the same secondary front setback with a 14 foot addition to the rear of the house.

The hardships in this case are the narrow lot width (57 feet in lieu of the required 75 feet) and the corner lot configuration. As may be seen in the attached side and rear elevations, the first and second floor portions of the addition encroach 3 feet into the required 13 foot setback, and the roof element (portion over 22 feet high) encroaches approximately 7 feet. It should be noted that the first floor addition consists on a screened porch, the nature of which is obviously "open" for the most part (chimney is included along this side).

Given the fact that the proposed addition is essentially "filling in" a portion of the gap between the house and the garage, no detrimental effect to the streetscape along Elm is anticipated in conjunction with the approval of this request.

Impervious Area

The proposal is in compliance with the allowable impervious surface area.

Subject Property and Surrounding Land Uses

The property contains a single-family dwelling, and is surrounded by same.

Affected Regulation

Article IV, Residence B District; Section 129-53, Special Provisions for Nonconforming Residence B Lots

Appends

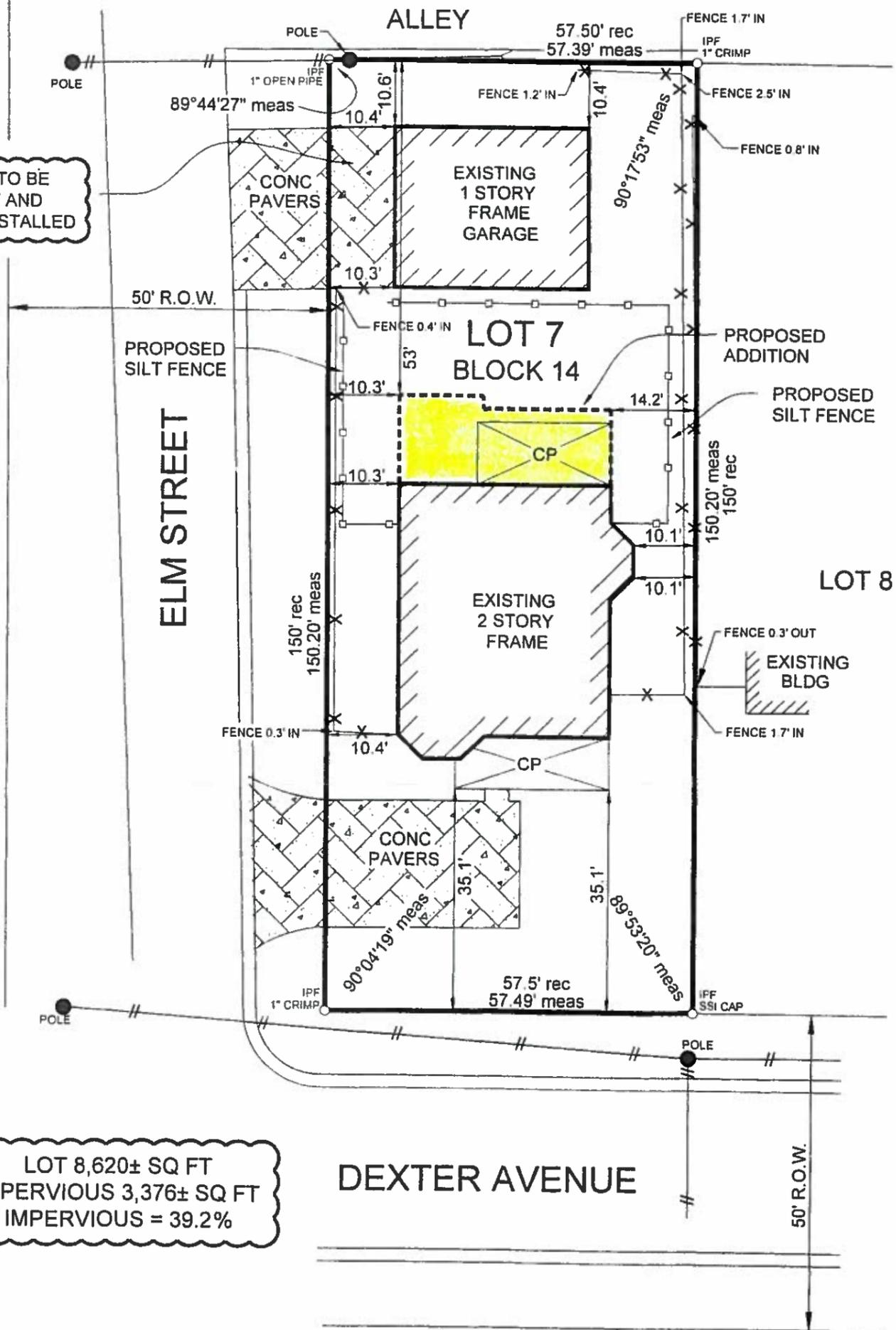
LOCATION: 200 Dexter Avenue

ZONING DISTRICT: Residence B

OWNERS: Chester and Tiffany Lewis

SCALE: 1" = 20'

NOTE: CONC PAVERS TO BE REMOVED WITHIN LOT AND PEA GRAVEL TO BE INSTALLED



- LEGEND:**
- ASPH = asphalt
 - BLDG = building
 - CALC = calculated
 - CAP = capped iron
 - CL = centerline
 - CH = chord
 - CONC = concrete
 - C = covered
 - d = deflection
 - D = curve delta angle
 - E = east
 - ESMT = easement
 - FC = fence
 - FD = found
 - HW = headwall
 - IPF = iron pin found
 - IPS = iron pin set
 - L = length
 - MEAS = measured
 - MIN = minimum
 - MH = manhole
 - N = north
 - OH = overhang
 - P = porch
 - PC = point of curve
 - PT = point of tangent
 - PVMT = pavement
 - REC = recorded
 - RES = residence
 - ROW = right of way
 - S = south
 - SAN = sanitary
 - STM = storm
 - SWR = sewer
 - SYN = synthetic
 - UTIL = utility
 - U = uncovered
 - W = west
 - ' = degrees
 - " = minutes, in bearings or angles
 - " = seconds, in bearings or angles
 - ' = feet, in distance
 - AC = acres
 - ± = more or less, or plus or minus
 - BRG = bearing

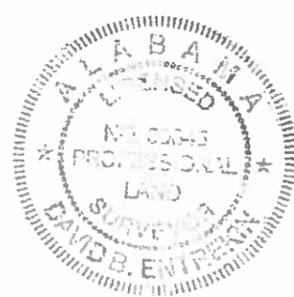
LOT 8,620± SQ FT
 IMPERVIOUS 3,376± SQ FT
 IMPERVIOUS = 39.2%

STATE OF ALABAMA
 SHELBY COUNTY

I, David B. Entrekin, a registered Land Surveyor, certify that I have surveyed Lot 7, Block 14, CRESTLINE HEIGHTS as recorded in Map Book 7, Page 16, in the Office of the Judge of Probate, Jefferson County, Alabama; that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief; that the correct address is as follows: 200 Dexter Avenue, according to my survey of July 8, 2015. Revised July 10, 2015 to show distance from rear of proposed residence to property line. Survey is not valid unless it is sealed with embossed seal or stamped in red.

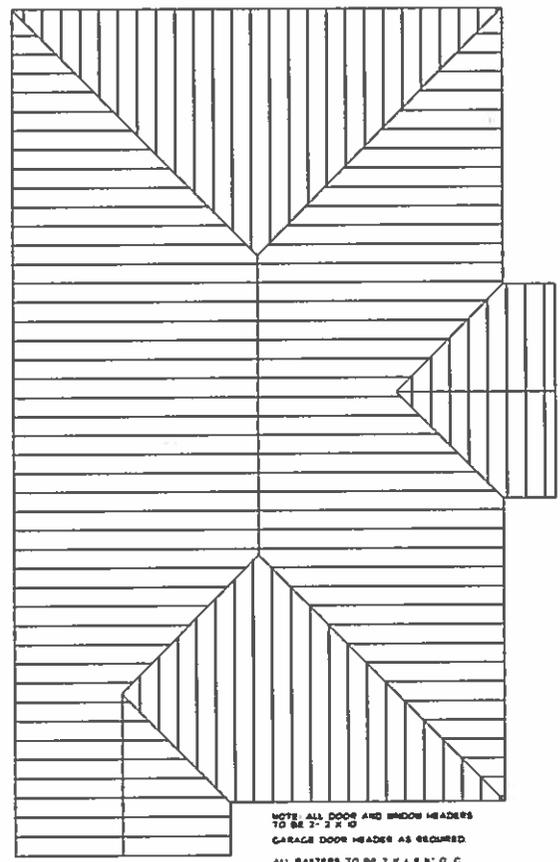
SURVEYING SOLUTIONS, INC.
 2232 CAHABA VALLEY DRIVE SUITE M
 BIRMINGHAM, AL 35242
 PHONE: 205-991-8965

David B. Entrekin
 David B. Entrekin, Reg. L.S. #30345
7-10-2015
 Date of Signature

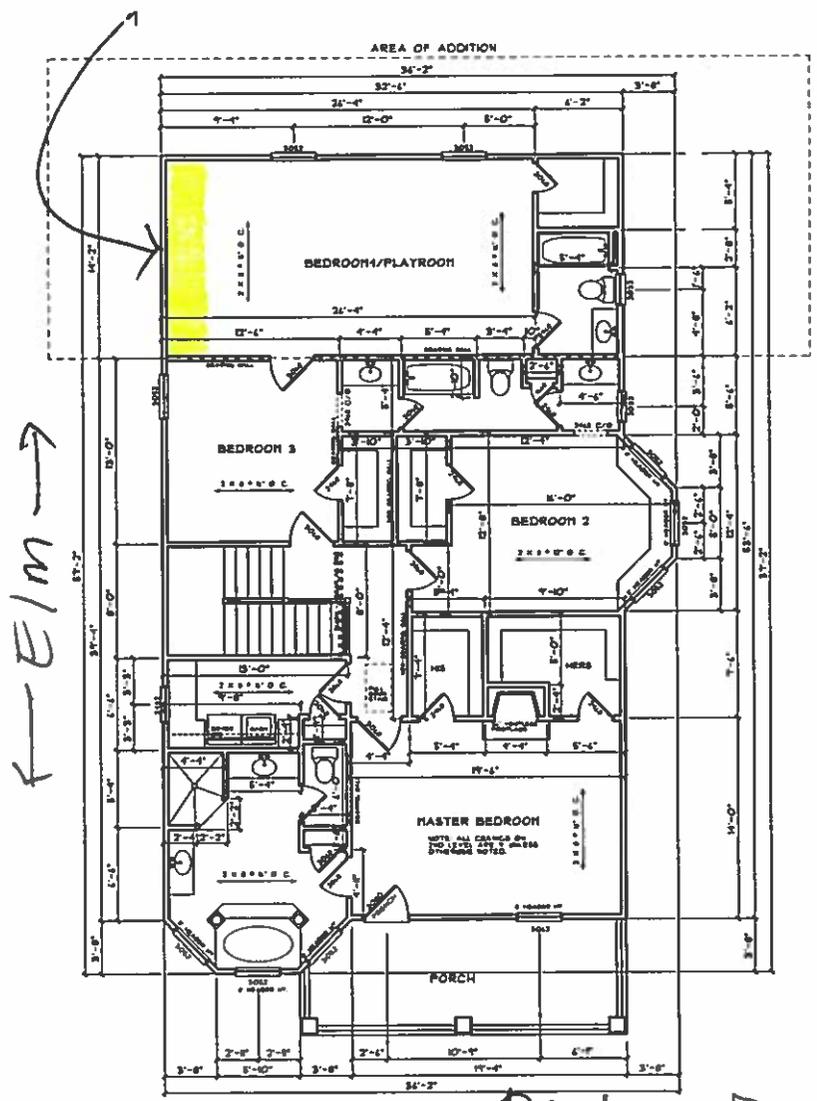


Order No: 14918
 Purchaser: Chester Lewis
 Type Survey: Special Purpose to
 Show Proposed Addition

proposed encroachment



ROOF PLAN



second floor

Copyright: 2001 Paul Gilbert Distinctive Designs

Drawing Number
14-111

Paul Gilbert
DISTINCTIVE DESIGNS
4880 Valleydale Road Suite 200, Birmingham, AL 35214 (205) 995-0070

Sheet Title
2nd LEVEL
FLOORPLAN
Scale
1/4" = 1'-0"
Drawn By
PAUL GILBERT

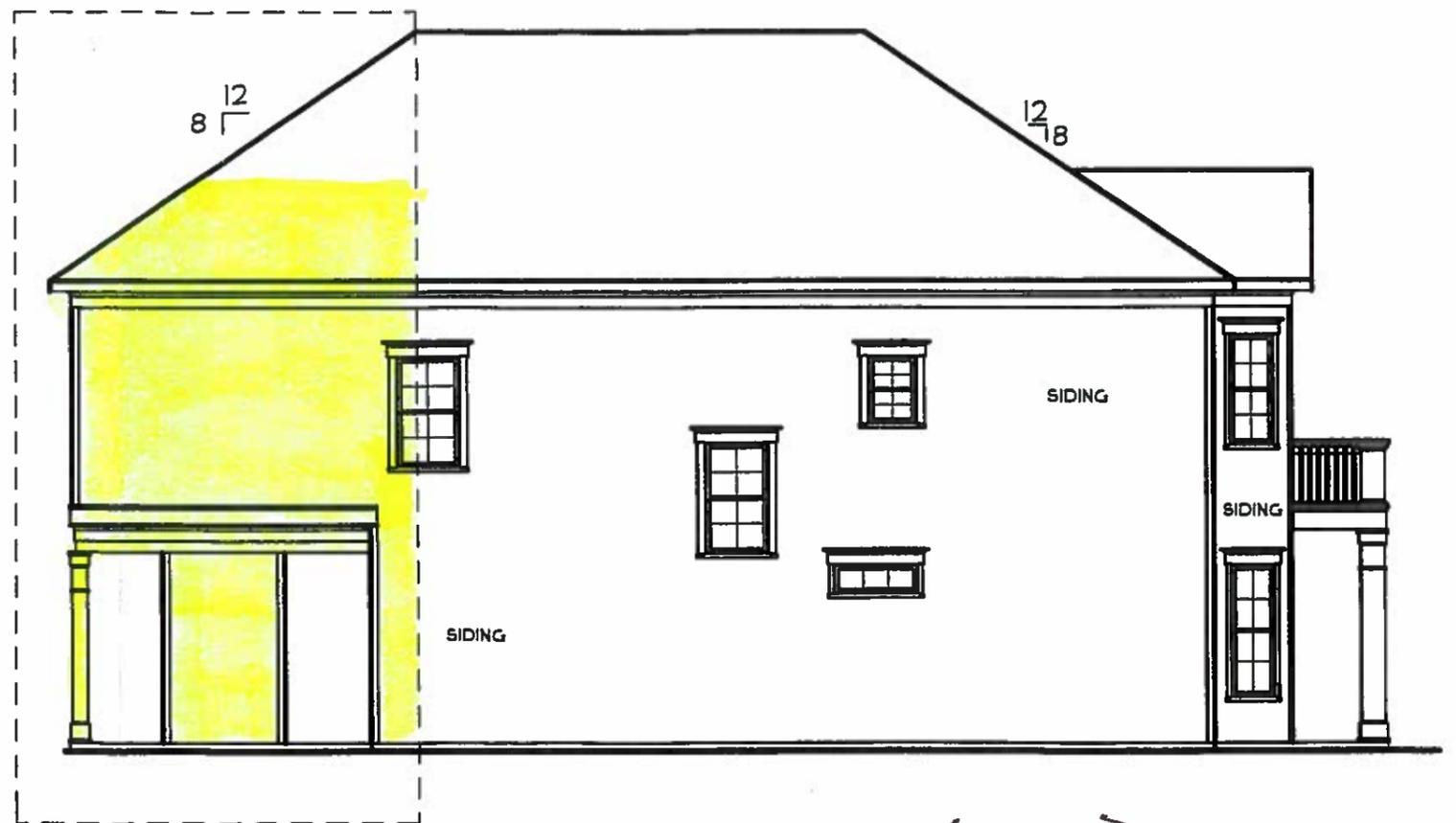
Drawing Number
4

A-15-05



REAR ELEVATION

AREA OF ADDITION



LEFT SIDE ELEVATION (Elm)

A-15-05

IF THIS IS A
COPY



View from Elm Street

A-15-05



A-15-05





VARIANCE APPLICATION PART I

Required Findings (Sec. 19.26.5 of the Zoning Ordinance)

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

Requesting 3' Road side yard Variance for addition to dwelling. Home was built in 2006 and was granted a 10' side yard build line. This would keep building uniform in shape.

Why is the granting of a variance necessary to preserve property rights on the subject property and not be the granting of a special privilege for the applicant's convenience?

10' side yard variance was approved in 2006 for this home Requesting the same for addition to original residence.

Was the condition from which relief is sought a result of action by the applicant? (i.e., self-imposed hardship such as: "...converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

No

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

Approval of variance would allow consistent lot back requirements on this lot. Would also keep building from being constructed with an odd 14' offset on side yard.

Variance Application - Part I

Project Data

Address of Subject Property 3298 Overton Trail 35243

Zoning Classification Res-A

Name of Property Owner(s) Richard D Gregg

Phone Number 205-603-3837 Email dallas.gregg@gmail.com

Name of Surveyor _____

Phone Number _____ Email _____

Name of Architect (if applicable) N/A

Phone Number N/A Email N/A

Property owner or representative agent must be present at hearing

Please fill in only applicable project information (relating directly to the variance request(s)):

	Zoning Code Requirement	Existing Development	Proposed Development
Lot Area (sf)			
Lot Width (ft)			
Front Setback (ft) <i>primary</i>			
Front Setback (ft) <i>secondary</i>	40'	44'	29'
Right Side Setback			
Left Side Setback			
Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Rear Setback (ft)			
Lot Coverage (%)			
Building Height (ft)			
Other			
Other			

A-15-06

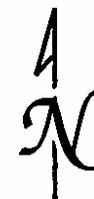
Dallas Gregg Project Scope

The purpose of this memo is to address the project scope of the proposed deck project at 3298 Overton Trail, Mountain Brook Al, 35243. I, Dallas Gregg, am the property owner and will serve as the General Contractor to complete the project using my building knowledge, tools and equipment which are self-owned. The project will begin shortly after the permit is received (possibly in late September 2015) and has a projected finish date no later than December 31, 2015. The projected project cost is \$3,129.

Please see the attached engineering drawings which comply with the 2015 International Building Code. The drawings include materials used, sizes, connections, and footings. The deck dimensions are 15 x 30. Please see the attached current property survey for setback information and deck location. The deck is to be facing the rear of the home on the Overton Road side of the property.

Please advise to which inspections will be required and the notice that will be needed.

A-15-06



Report to the Board of Zoning Adjustment

A-15-06

Petition Summary

Request to allow the construction of an uncovered deck to be 29 feet from the secondary front property line (Overton Road) in lieu of the required 40 feet.

Analysis

The hardships in this case are the triangular shape of the lot, double street fronts and topography. Given the slope of the lot, the proposed “rear” deck would be 9.3 feet from the grade at the lowest point and 6.6 feet from the grade at the highest point (plus a 3 foot guard rail).

One unique factor of this lot configuration is that it is the only Res-A lot in this “fork” in the road. The multi-family units to the south are in Vestavia and face inward to a private drive, so there is no consistent streetscape along Overton Road to be protected. Also, the grade of this lot is higher than Overton Road and the houses across the street. Given these circumstances, an approval of this request is not anticipated to be detrimental to the streetscape or surrounding properties.

Impervious Area

The proposal is in compliance with the allowable impervious surface area.

Subject Property and Surrounding Land Uses

The property contains a single-family dwelling, and is surrounded by same.

Affected Regulation

Article III, Residence A District; Section 129-34, Area and Dimensional Requirements

Appends

LOCATION: 3298 Overton Trail

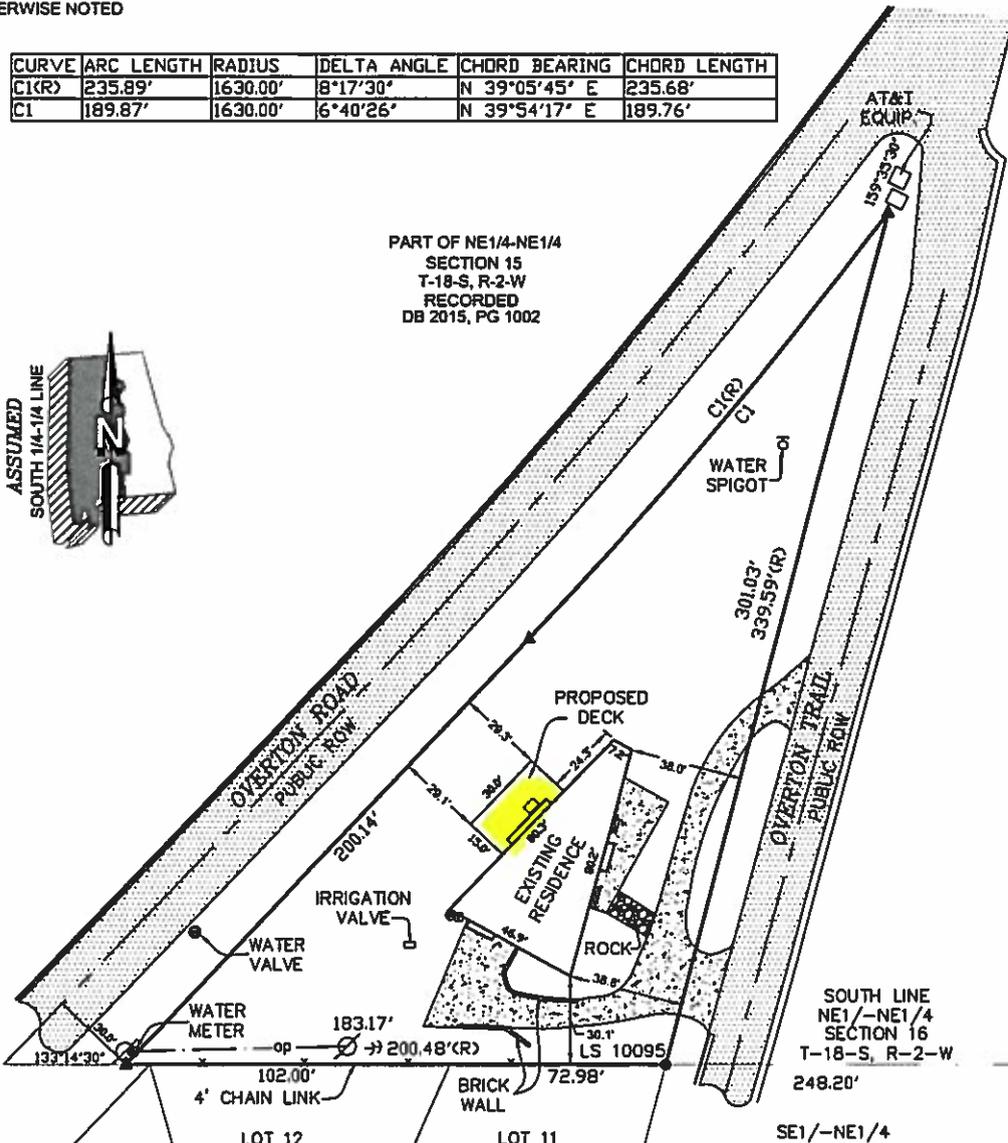
ZONING DISTRICT: Residence A

OWNER: Richard Gregg

NOTE: RECORDED & MEASURED ANGLES AND DISTANCES ARE THE SAME UNLESS OTHERWISE NOTED

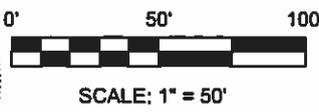
CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
CI(R)	235.89'	1630.00'	8°17'30"	N 39°05'45" E	235.68'
CI	189.87'	1630.00'	6°40'26"	N 39°54'17" E	189.76'

PART OF NE1/4-NE1/4 SECTION 15 T-18-S, R-2-W RECORDED DB 2015, PG 1002



LEGEND

- CAPPED REBAR SET (DDM LS 30350)
- FOUND PROPERTY MARKER (SEE DWG FOR SIZE & TYPE)
- (R) RECORDED REFERENCE
- op— OVERHEAD POWER
- x—x— FENCE
- row— RIGHT-OF-WAY
- A/C AIR CONDITIONER
- CONCRETE
- GUY WIRE
- POWER POLE
- WATER METER
- ASPHALT
- COVERED



PROJECT NO. 15-036



David D. McKinney
 Alabama Professional Land Surveyor
 180 White Oak Circle
 Lincoln, Alabama 35096
 Scheduling: (206) 375-2710 Cell: (205) 281-6723

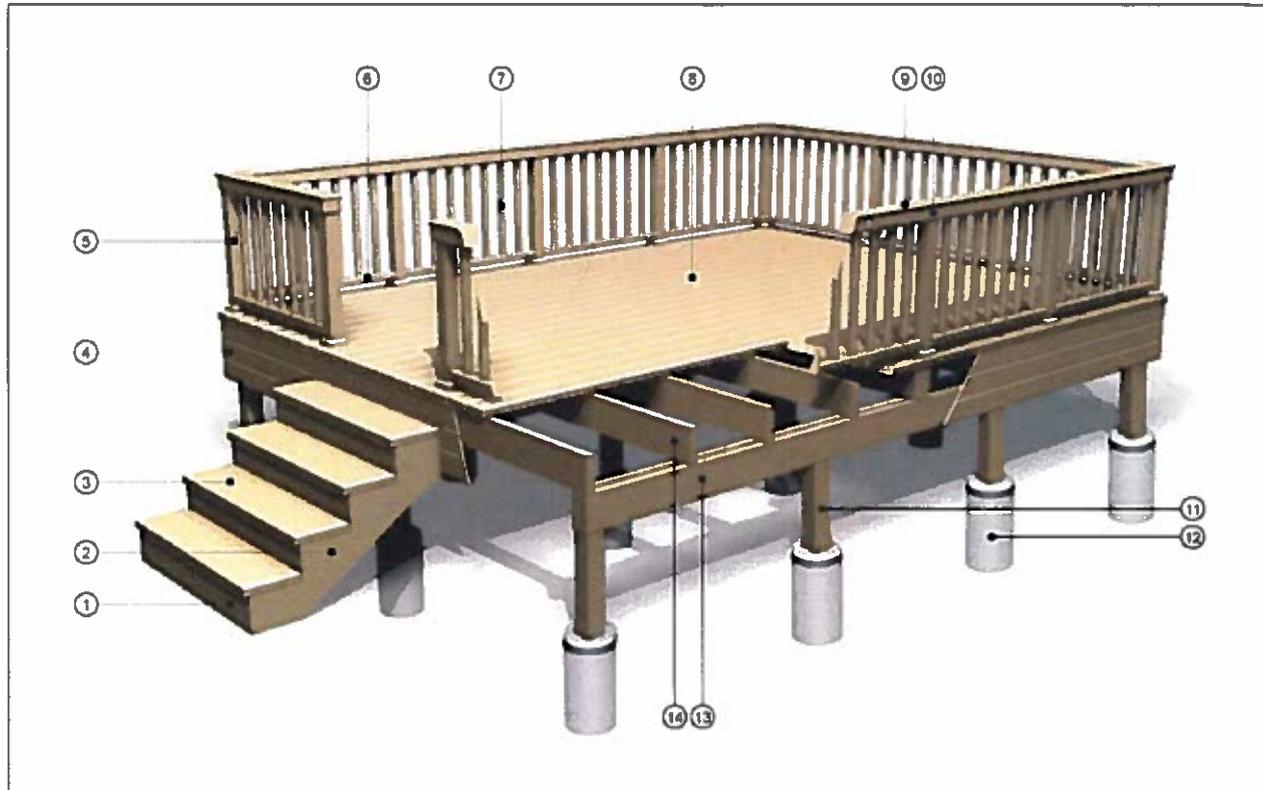
TYPE OF SURVEY
PLOT PLAN

CLIENT
Dallas Gregg
 3298 Overton Trail
 Vestavia, AL 35243

REVISIONS		
NO.	DESCRIPTION	DATE

DATE: 06/22/15	DRAWN: DDM	CHKD: DDM	SCALE: 1"=50'
----------------	------------	-----------	---------------

Deck Part Identification



1. Riser	6. Bottom Rail	11. Post	Major Deck Components NOTE: Not to scale ©2015 DIY Technologies
2. Stringer	7. Baluster	12. Post Footer	
3. Tread	8. Decking	13. Beam	
4. Fascia	9. Rail Cap	14. Joist	
5. Rail Post	10. Top Rail		

Baluster	The vertical pieces of a railing spaced at regular intervals between posts.
Beam	A horizontal framing piece, which rests on posts and supports joists.
Decking	The boards used to make the walking surface of the deck.
Joist	A horizontal frame piece that supports the decking and spreads the weight over the beams.
Ledger	A horizontal strip that connects the deck to the house.
Post Footer	Concrete filled hole that the post is attached to.
Post	A vertical framing piece, used to support a beam or joist.
Riser	A board attached to the vertical cut surface of a stair stringer.
Stringer	The diagonal board used to support treads and risers on a stairway.
Tread	The horizontal surface of a stair.
Bottom Rail	The lower horizontal piece that connects rail posts and supports balusters.
Top Rail	The upper horizontal piece that connects rail posts and supports balusters.
Rail Cap	The top horizontal trim on railing.
Rail Post	The vertical post connected to the deck framing that supports the railing.

A-15-06



View of rear yard from Overton Road



A-15-06



Variance Application Part II

Required Findings (Sec. 19.26.5 of the Zoning Ordinance)

To aid staff in determining that the required hardship findings can be made in this particular case, please answer the following questions with regard to your request. **These findings must be made by the Board of Zoning Adjustment in order for a variance to be granted** (please attach a separate sheet if necessary).

What special circumstances or conditions, applying to the building or land in question, are peculiar to such building or land, and do not apply generally to other buildings or land in the vicinity (including size, shape, topography, location or surroundings)?

Triangle shaped lot that creates 3 Crown
Septic system that limits building capabilities

Why is the granting of a variance necessary to preserve property rights on the subject property and not be the granting of a special privilege for the applicant's convenience?

Due to the shape and dimensions of the lot
this is the only possible location for a deck

Was the condition from which relief is sought a result of action by the applicant? (i.e., *self-imposed hardship* such as: "... converted existing garage to living space and am now seeking a variance to construct a new garage in a required setback...")

No

How would the granting of this variance be consistent with the purpose and intent of the Zoning Regulations?

The configuration of the home doesn't have
an outdoor space known as a backyard
and this deck would grant such space.



Variance Application - Part I

Project Data

Address of Subject Property 816 BEECH COURT

Zoning Classification RES-B

Name of Property Owner(s) GEORGE & KRISTEN CARBONIE

Phone Number 205-266-6422 Email gictide@aol.com

Name of Surveyor RAY WEYGAND

Phone Number 205-942-0086 Email jamie-weygand@bellsouth.net

Name of Architect (if applicable) _____

Phone Number _____ Email _____

Property owner or representative agent must be present at hearing

Please fill in only applicable project information (relating directly to the variance request(s)):

	Zoning Code Requirement	Existing Development	Proposed Development
Lot Area (sf)			
Lot Width (ft)			
Front Setback (ft) <i>primary</i>			
Front Setback (ft) <i>secondary</i>			
Right Side Setback			
Left Side Setback			
Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Rear Setback (ft)	35'	25.9'	12.5'
Lot Coverage (%)			
Building Height (ft)			
Other	recharacterize northern border as a side setback		
Other	w/ the accompanying side setback standards		

To: City of Mountain Brook

From: George Carbonie

816 Beech Court 35213

Please consider granting variance relief for this proposed project. We are located on the corner lot of Beech Court and Beech Street. This gives our lot 2 fronts, 1 side and 1 rear setback. Being a corner lot, and the size, shape and position of our existing home on the lot, the most reasonable and feasible option for our family to gain needed bedroom space is to add on.

We are asking that what is now considered our rear be treated as a side setback. The closest home to this side of ours is 214 Beech Street. This addition can successfully be accomplished within the guidelines of a side setback and still make our home much farther away from our side of 214 than the home on the other side. (216 Beech Street)

Please call with any questions.

Sincerely,

George Carbonie

205-266-6422



A-15-07



Report to the Board of Zoning Adjustment

A-15-07

Petition Summary

Request to allow an addition to an existing single family dwelling to be 12.5 feet from the rear property line (north) in lieu of the required 35 feet.

Analysis

The hardships in this case are the corner lot configuration and the existing 49 foot secondary front along Beech Street, both of which serve to minimize the buildable are of the site.

The proposed addition is along the north (rear) property line, but is abuts the side setback (required 12.5 feet) of the adjoining property. The proposed addition mimics the required side setback of 12.5 feet, which would be required for the subject property if the house were oriented toward Beech Street instead of Beech Court.

It should be noted that the existing detached garage is proposed to be removed in conjunction with the new construction. The hardships noted above appear to warrant some degree of setback relief, and given the design constraints of the lot and the corner lot configuration, no detrimental effects to adjoining properties are anticipated in conjunction with an approval of this request.

Impervious Area

The proposal is in compliance with the allowable impervious surface area.

Subject Property and Surrounding Land Uses

The property contains a single-family dwelling, and is surrounded by same.

Affected Regulation

Article IV, Residence B District; Section 129-52, Area and Dimensional Requirements

Appends

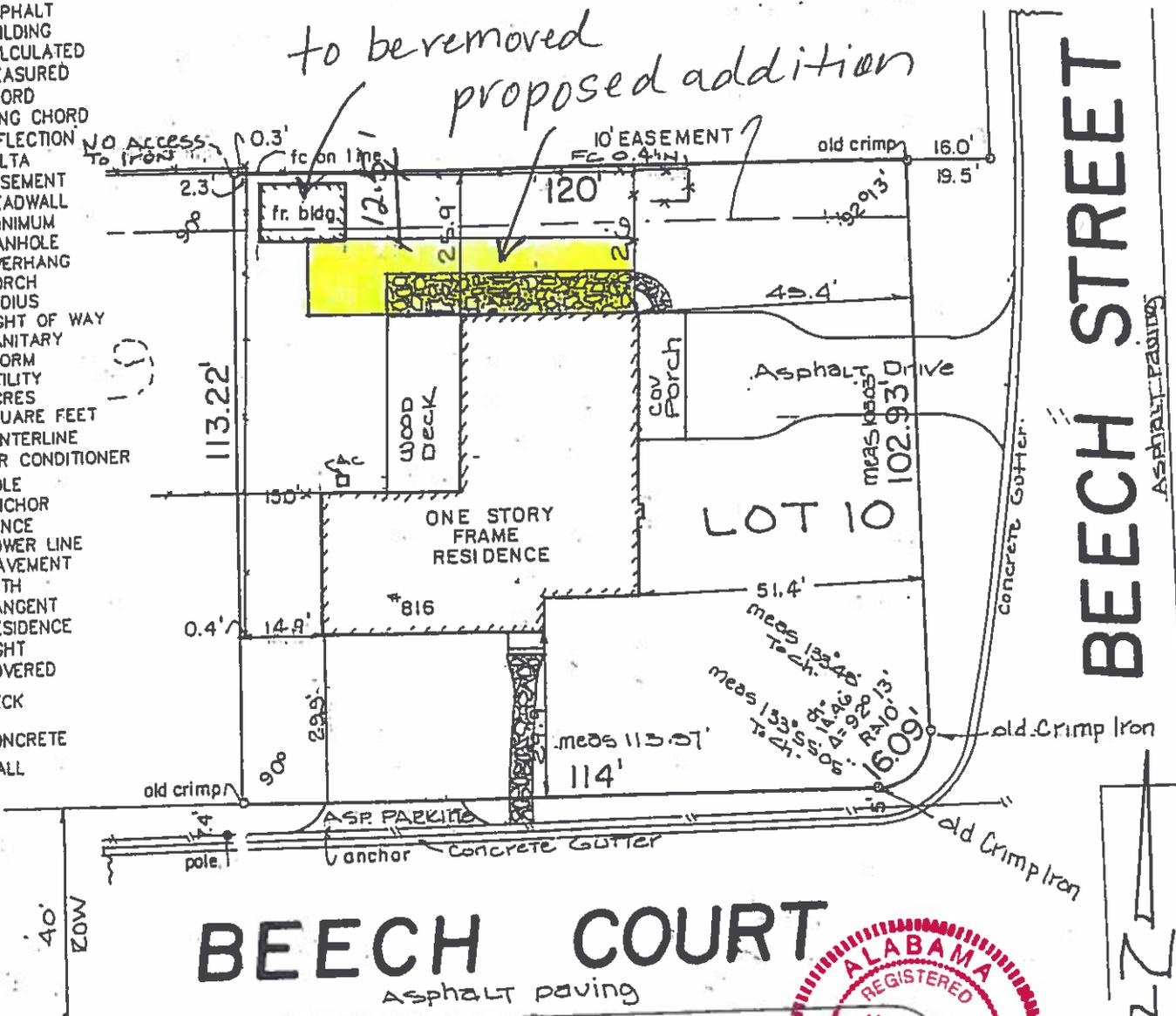
LOCATION: 816 Beech Court

ZONING DISTRICT: Residence B

OWNER: George and Kristen Carbonie

LEGEND

- ASP ASPHALT
- BLDG BUILDING
- CALC CALCULATED
- MEAS MEASURED
- CH CHORD
- LNG LONG CHORD
- d DEFLECTION
- Δ DELTA
- ESMT EASEMENT
- HW HEADWALL
- MIN MINIMUM
- MH MANHOLE
- OH OVERHANG
- POR PORCH
- R RADIUS
- R.O.W. RIGHT OF WAY
- SAN SANITARY
- STM STORM
- UTIL UTILITY
- AC ACRES
- S.F. SQUARE FEET
- CL CENTERLINE
- A/C AIR CONDITIONER
- POLE
- ANCHOR
- X FENCE
- POWER LINE
- PVMT PAVEMENT
- W/TAN WITH TANGENT
- RES RESIDENCE
- oLGT LIGHT
- COV COVERED
- ▨ DECK
- ◉ CONCRETE
- ▨ WALL



BEECH COURT
Asphalt paving



STATE OF ALABAMA,
JEFFERSON COUNTY)

"Closing Survey"

I, Ray Weygand, a Registered Land Surveyor, hereby certify to the purchaser of this property at this time, that I have surveyed Lot 10 BEECH COURT as recorded in Map Volume 39, Page 38 in the Office of the Judge of Probate, Jefferson County, Alabama; that there are no rights-of-way, easements or joint driveways over across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve the premises only) or structures or supports therefor, including poles, anchors and guy wires, (visible on the surface) on or over said premises except as shown; that there are no encroachments on said lot except as shown and that improvements are located as shown above. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief, according to my survey of 8/27/15. Survey invalid if not sealed in red.

Order No: 48671
Purchaser: CARBONIE
Address: BIG BEECH COURT

Ray Weygand, Reg. L.S. #24973
169 Oxmoor Road Homewood, AL 35209
Phone: (205) 942-0088 Fax: (205) 942-0087

Copyright ©

Note: (a) No title search of the public records has been performed by this firm and land shown hereon was not abstracted for easements and/or rights-of-way, recorded or unrecorded. The parcel shown hereon is subject to setbacks, easements, zoning, and restrictions that may be found in the public records of said county and/or city. (b) All bearings and/or angles, are deed/record map and actual unless otherwise noted. (c) Underground portions of foundations, footings, and/or other underground structures, utilities, cemetery or burial sites were not located unless otherwise noted. We do not look for underground sewers or flip manhole covers. (d) The shown north arrow is based on deed/record map. (e) This survey is not transferable and is only good for 8 years and only good to the person/co. that pays for it at time of survey. (f) Easements not shown on record map are not shown above.

A-15-07

A-15-07

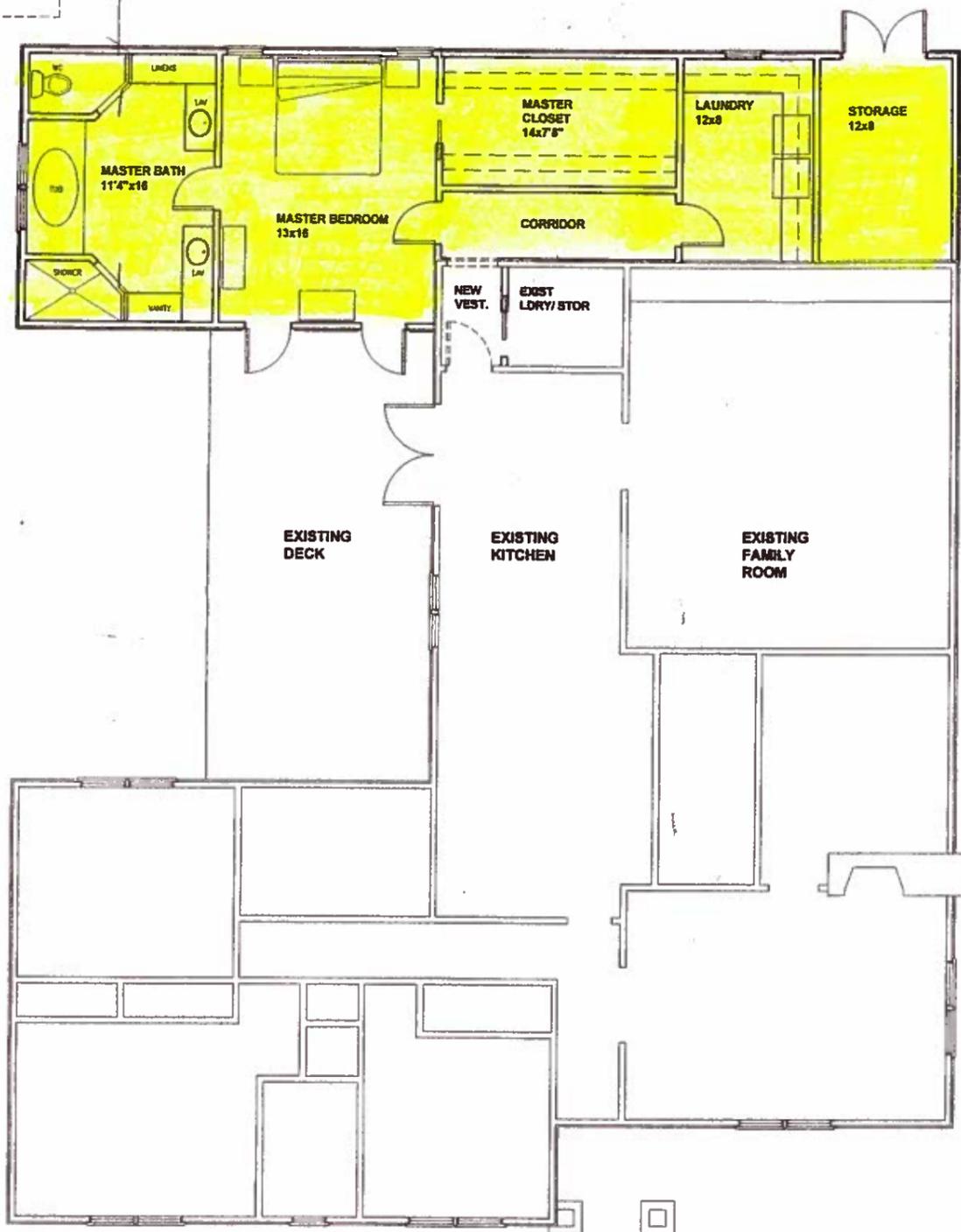
THOMPSON ARCHITECTURE
INCORPORATED

1314 Cobb Lane Birmingham, AL 35205
Telephone 205 414 1272 Fax 205 414 1278
www.thompsonarchitect.com

ISSUED FOR REVIEW:

11-21-07

NOT FOR CONSTRUCTION



SCHEME A DATA	MASTER SUITE + STORAGE ADDED ON 1st FLOOR
MAIN FLOOR AREA ADDED	810 s.f.
MAIN FLOOR AREA RENOVATED	25 s.f.
CONSTRUCTION COST ESTIMATE	

Beech St. ↑

North ↑

PROPOSED FLOOR PLAN- SCHEME A

← Beech Court →

SCALE: 1/4" = 1'-0"

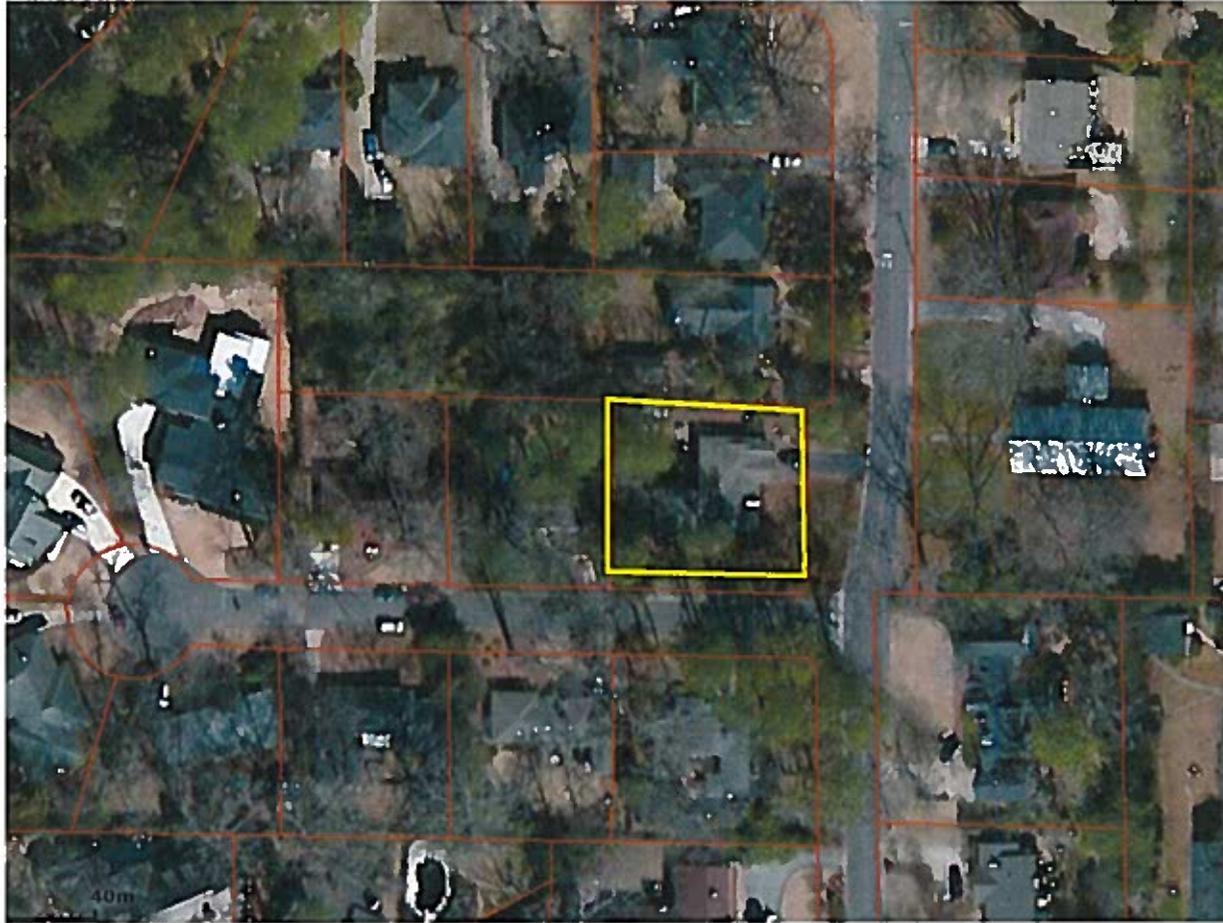
A-15-07

ADDITION TO

CARBONIE RESIDENCE

MOUNTAIN BROOK, ALABAMA

DRAWING NAME	
FLOOR PLAN- SCHEME A	
COM	CAR-07038
DRAWN BY	RT
CHECKED	RT
APPROVED	RT
DATE	11-21-07



A-15-07





A-15-08

Variance Application - Part I

Project Data

Address of Subject Property 98 Country Club Blvd
 Zoning Classification RA
 Name of Property Owner(s) Troy i Rand: Rhone
 Phone Number 205-249-1030 Email troy@kayrhone.com
 Name of Surveyor Waygan
 Phone Number _____ Email _____
 Name of Architect (if applicable) Bill Ingram
 Phone Number 205 324 5599 Email bill@billingramarchitect.com

Property owner or representative agent must be present at hearing

Please fill in only applicable project information (relating directly to the variance request(s):

	Zoning Code Requirement	Existing Development	Proposed Development
Lot Area (sf)			
Lot Width (ft)			
Front Setback (ft) <i>primary</i>			
Front Setback (ft) <i>secondary</i>	40'	3.7'	32' (stair) 6' (chimney)
Right Side Setback	15'	9.5'	4.5' (stair)
Left Side Setback			12' (chimney)
Right Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Left Side Setback (ft): For non-conforming narrow lots in Res-B or Res-C: Less than 22' high → 22' high or greater →			
Rear Setback (ft)			
Lot Coverage (%)			
Building Height (ft)			
Other <i>lot coverage</i>	25%	36%	37.4%
Other <i>impervious</i>	30%	42.65%	37.39%



A-15-08



Report to the Board of Zoning Adjustment

A-15-08

Petition Summary

Request to allow additions to an existing single family dwelling to be 4.5 feet from the side property line (west) in lieu of the required 15 feet, and 6 feet from the secondary front property line (Montevallo Road) in lieu of the required 40 feet. Also, to allow an increase in lot coverage from the existing 36% (1,814 sf) to 37.4% (1,847 sf). These additions include a staircase (west façade) and a chimney (south façade). The scope of the proposed additions is less than in previous variance approvals.

Background

On September 8, 2014, the Board approved Case 4136, which was a request to allow an addition to an existing single family dwelling to be 2.5 feet from the side property line (west) in lieu of the required 15 feet, 30.5 feet from the primary front property line (Country Club Boulevard) and 14.3 feet from the secondary front property line (Montevallo Road), both in lieu of the required 40 feet. Also, to allow an increase in lot coverage from the existing 36% (1,814 sf) to 42.29% (2,088 sf).

Analysis

The hardships in this case are the triangular shape of the lot, the size of the lot (4,937 sf in lieu of the 30,000 sf minimum for Res-A), and the fact that it has a primary and a secondary front, each with required 40-foot setbacks. When all required setbacks are taken into account, this lot is completely unbuildable, and the existing house currently encroaches into all required setbacks.

As may be seen on the attached survey, the existing house is 1.9 feet from the side property line (west), 15.3 feet from the primary front (Country Club Boulevard) and 3.7 feet from the secondary front (Montevallo Road).

Impervious Area

A unique factor contributing to this case is the fact that the Birmingham Country Club has dedicated a perpetual use easement on the west side of the property for the exclusive use of this property. This easement is for improvements such as parking and landscaping, but may not be used for buildings; the easement may also be seen on the attached survey.

The easement consists of approximately 5,143 square feet, and while this additional “yard” area cannot be added to the subject lot area for purposes of *calculating* the maximum lot coverage and impervious area, according to the City Attorney, it can be considered as a finding for approval of a variance to exceed the lot coverage area, with a condition that the storm water requirements for impervious area be satisfied either by an overall net-zero increase in impervious area on the subject lot or by a plan shown to divert the run-off from the subject lot to the landscaping of the easement area, such that there is no post construction increase in run-off. See attached Sec 5 (e) from the Storm water ordinance that allows landscaping and/or plantings to be designed to demonstrate compliance with the storm water ordinance.

If the Board is inclined to approve the lot coverage variance, such could be approved with a condition that a storm water diversion plan be approved by the Building Official prior to the issuance of any building permits for the addition.

However, the application indicates that while the proposed lot coverage is to increase (from 36% to 37.4%), the overall impervious area is to decrease from 42.65% to 37.39%). Therefore, since the impervious area is not increasing from the existing conditions, the proposal appears to comply with the storm water ordinance.

Previous Background

On May 14, 2007 the Board approved variance Case 3811 on the subject property to allow an addition to be 2.5 feet from the side property line (west) in lieu of the required 15 feet, 15.3 feet from the primary front property line (Country Club Boulevard) and 3.1 feet from the secondary front property line (Montevallo) both in lieu of the required 40 feet.

Subject Property and Surrounding Land Uses

The property contains a single-family dwelling, and is surrounded by same.

Affected Regulation

Article III, Residence A District; Section 129-34, Area and Dimensional Requirements

Appends

LOCATION: 98 Country Club Boulevard

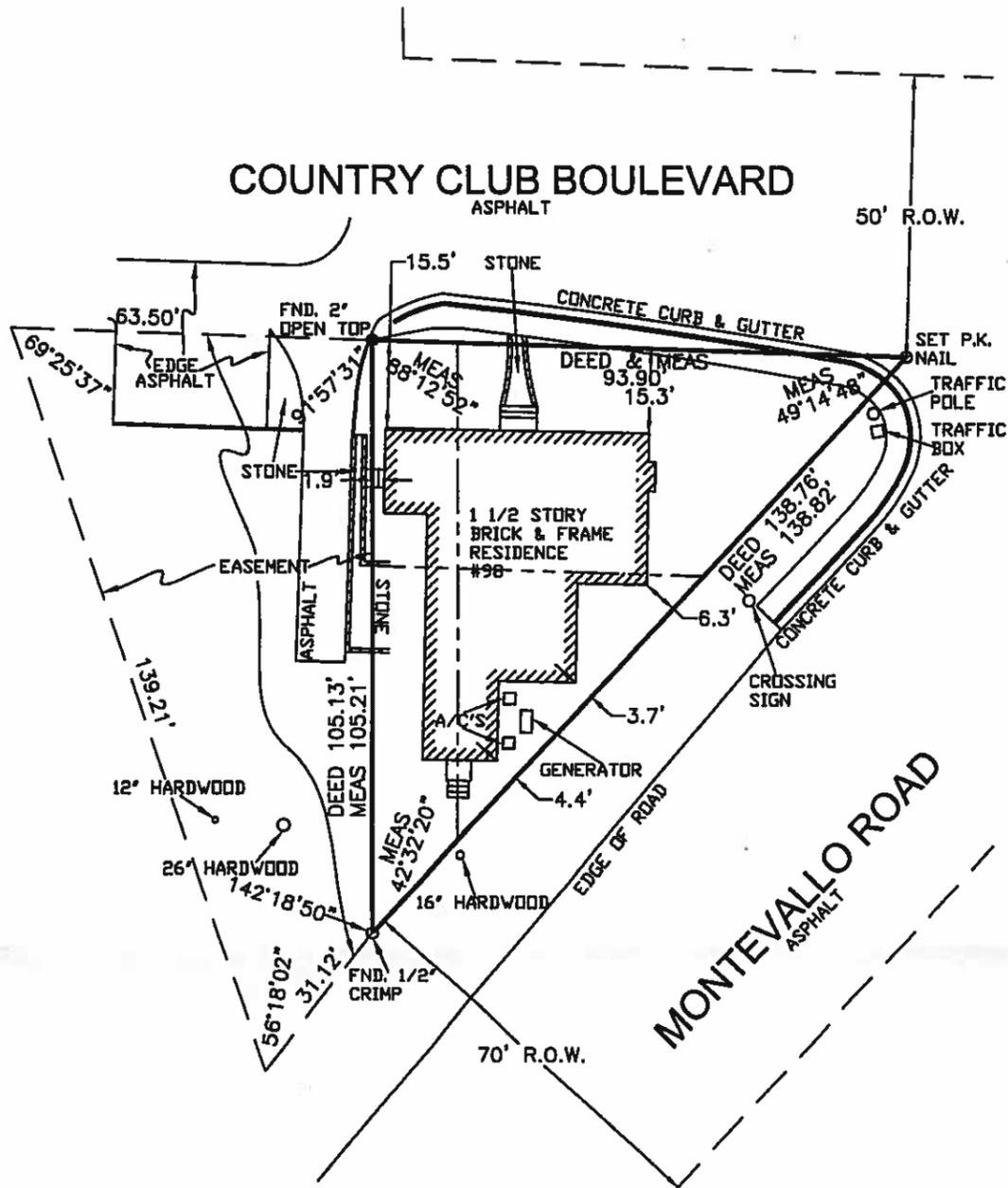
ZONING DISTRICT: Residence A

OWNERS: Troy and Randi Rhone

Existing Survey

LEGEND

ASP	ASPHALT
BLDG	BUILDING
CALC	CALCULATED
MEAS	MEASURED
CH	CHORD
LNG	LONG CHORD
d	DEFLECTION
Δ	DELTA
ESMT	EASEMENT
HW	HEADWALL
MIN	MINIMUM
MH	MANHOLE
OH	OVERHANG
POR	PORCH
R	RADIUS
R.O.W.	RIGHT OF WAY
SAN	SANITARY
STM	STORM
UTIL	UTILITY
AC	ACRES
S.F.	SQUARE FEET
CL	CENTERLINE
A/C	AIR CONDITIONER
○	POLE
—	ANCHOR
-X-	FENCE
—X—	OVERHEAD UTILITY WIRE
PVMT	PAVEMENT
W/	WITH
TAN	TANGENT
RES	RESIDENCE
LG	LIGHT
COV	COVERED
▨	DECK
⊙	CONCRETE
▨	WALL
□	COLUMN



SCALE: 1"=30'
State of Alabama)
Jefferson County)

"Closing Survey"

I, Ray Weygand, a registered Land Surveyor, certify that I have surveyed the land shown and described hereon; that there are no rights-of-way, easements, or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (excluding wires which serve premises only) or structures or supports therefor, including poles, anchors and guy wires, on or over said premises except as shown; that I have consulted the Federal Insurance Administration Flood Hazard Boundary Map and found that this property is not located in a special flood hazard area; that there are no encroachments on said lot except as shown and that improvements are located as shown. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief.

Legal Description:

Begin at the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of Section 4, Township 18 South, Range 2 West, thence South along the West line of said 1/4 - 1/4 section 105.09 feet to an intersection with the Northwesterly right of way line of the Montevallo Road; thence in a Northeasterly direction along the said right of way line 138.76 feet to an intersection with the North line of said Southwest 1/4 of Southwest 1/4 of said Section 4; thence West along the North line of said 1/4 - 1/4 section 93.9 feet to the point of beginning; situated in Jefferson County, Alabama, Birmingham Division.

TOGETHER WITH easement rights over and across the following described property:

A parcel of land situated in the Southeast 1/4 of the Southeast 1/4 of Section 5, Township 18 South, Range 2 West, Jefferson County, Alabama, being more particularly described as follows: Begin at the Northeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 5, Township 18 South, Range 2 West, Jefferson County, Alabama (as marked by a 2" iron pipe) and run in a Southerly direction along the East line of said section a distance of 105.13 feet to a 1" crimped iron pipe on the Northwesterly right of way of Montevallo Road; thence turn an interior angle of 142° 18' 50" and run to the right in a Southwesterly direction along said right of way a distance of 31.12 feet; thence turn an interior angle of 56° 18' 02" and run to the right in a Northwesterly direction a distance of 139.21 feet to the North line of said 1/4 - 1/4 section; thence turn an interior angle of 69° 32' 11" and run to the right in an Easterly direction along said North line a distance of 63.49 feet to the point of beginning.

Less and except any portion of subject property lying within a road right of way.

According to my survey of: SEPTEMBER 9, 2015 .
Order No.: 77322
Purchaser: _____
Address: 98 Country Club Boulevard

Ray Weygand Reg. L.S. #24973
169 Oxmoor Road, PH: 942-0086
Homewood, AL 35209 © Copyright

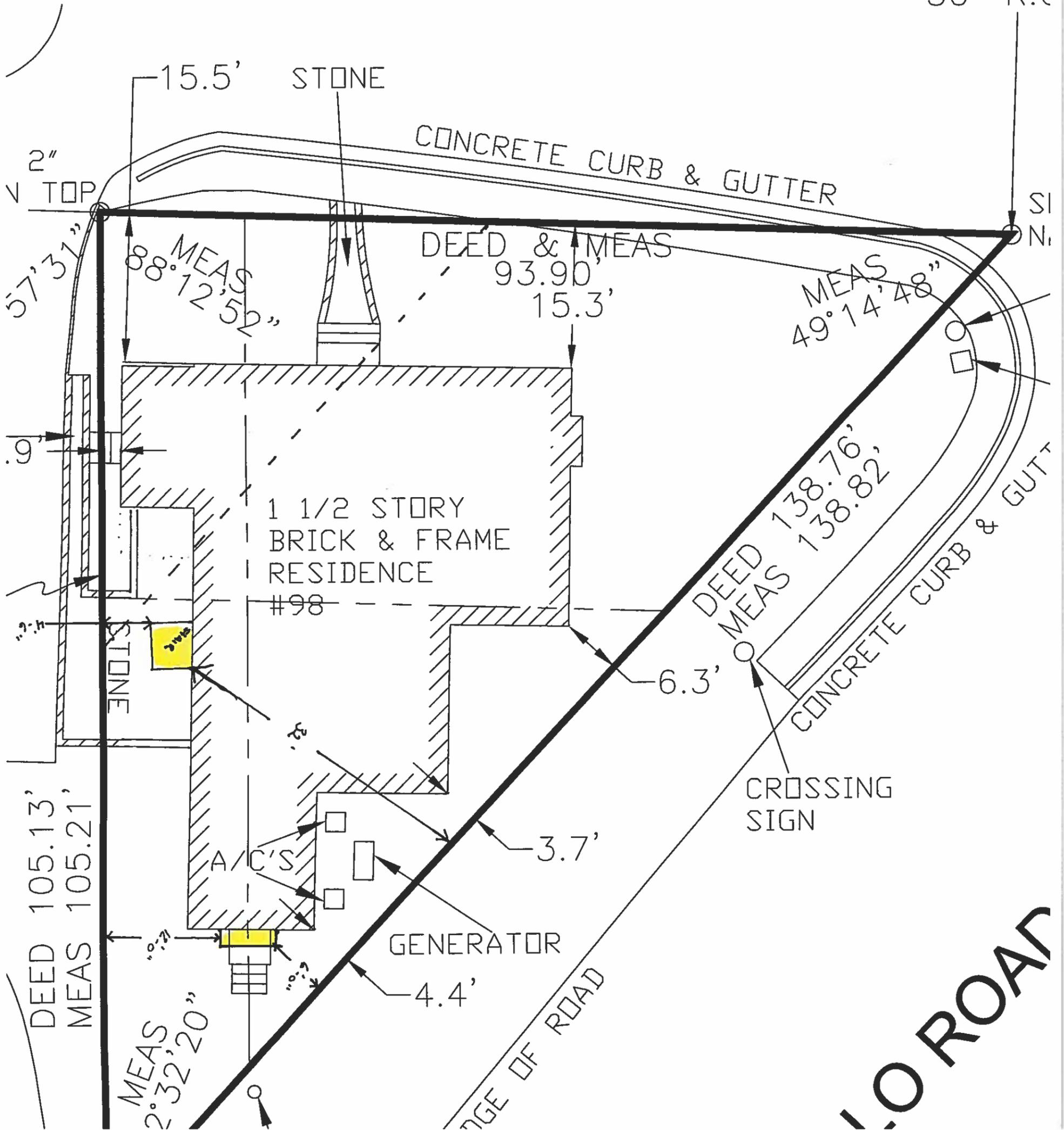
Survey invalid if not sealed in red.

proposed additions

COUNTRY CLUB BOULEVARD

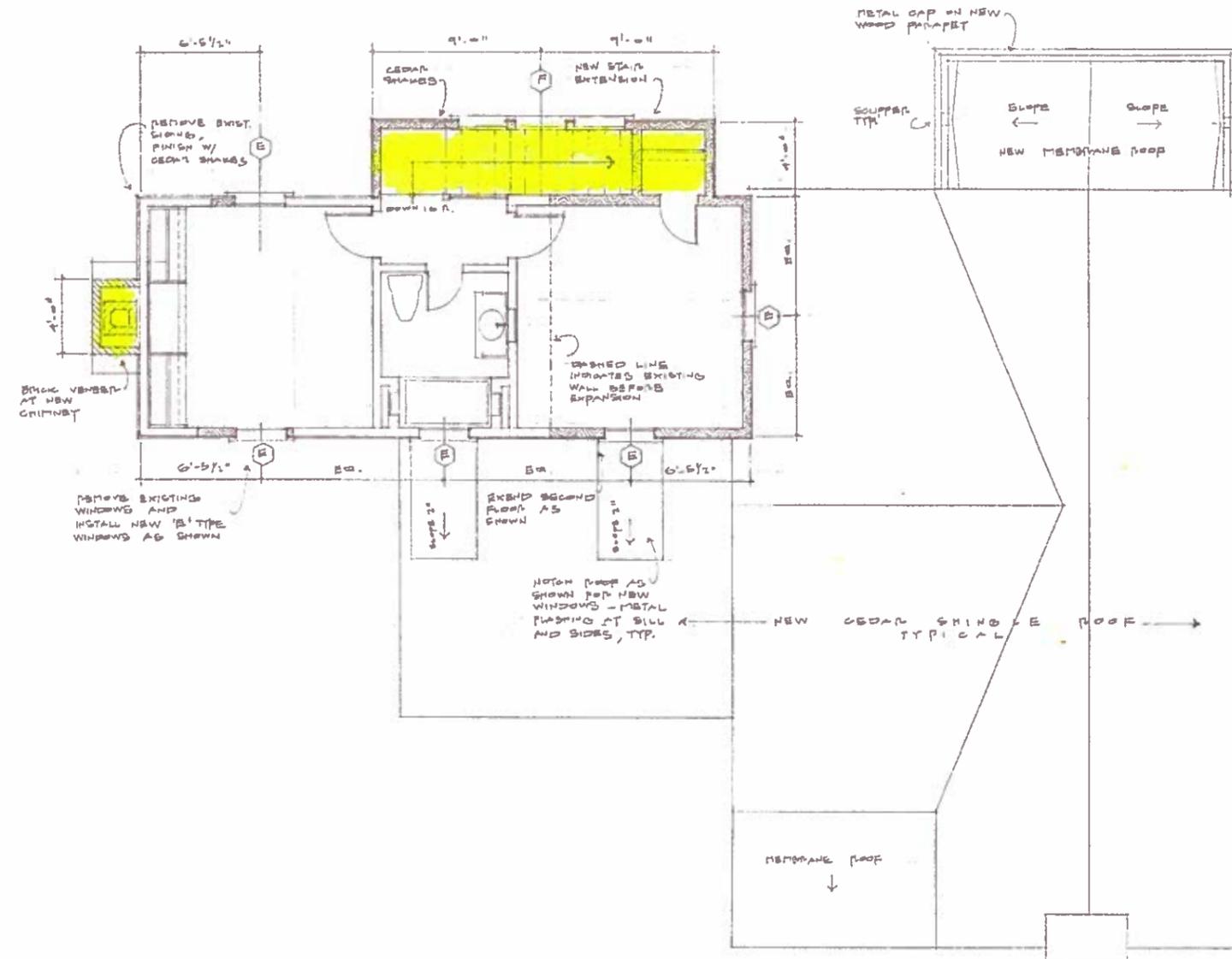
ASPHALT

50' R.C.



LO ROAN

A-15-08



SECOND FLOOR PLAN 1/4" = 1'-0"

NOTE: PLANS DATED AUGUST 24, 2015 FOR EXTERIOR WORK ONLY. INTERIOR PLANS TO FOLLOW.

 <p>BILL INGRAM ARCHITECTS</p>
<p>ADDITIONS AND RENOVATIONS TO THE COUNTY CLUB BLDG FOR THE PHONE</p>
<p>SECOND FLOOR PLAN</p>
<p>AUGUST 24, 2015</p>
<p>A-2</p>



Existing west side yard



Proposed stair addition in west side yard

VARIANCE APPLICATION
Part I Responses

A-15-08

- 1.1 Size: The lot is 4,937 square feet as opposed to the current Residence A requirement of 30,000 square feet.

Shape: The lot is a triangle with overlapping setbacks resulting in zero square feet of land available for building.

Surroundings: The lot is a peninsula with road frontage on three of the four sides.

Adjoining the lot to the side of the requested variance is a perpetual use easement which provides a buffer of 38' from the proposed structure to the far edge of the easement.

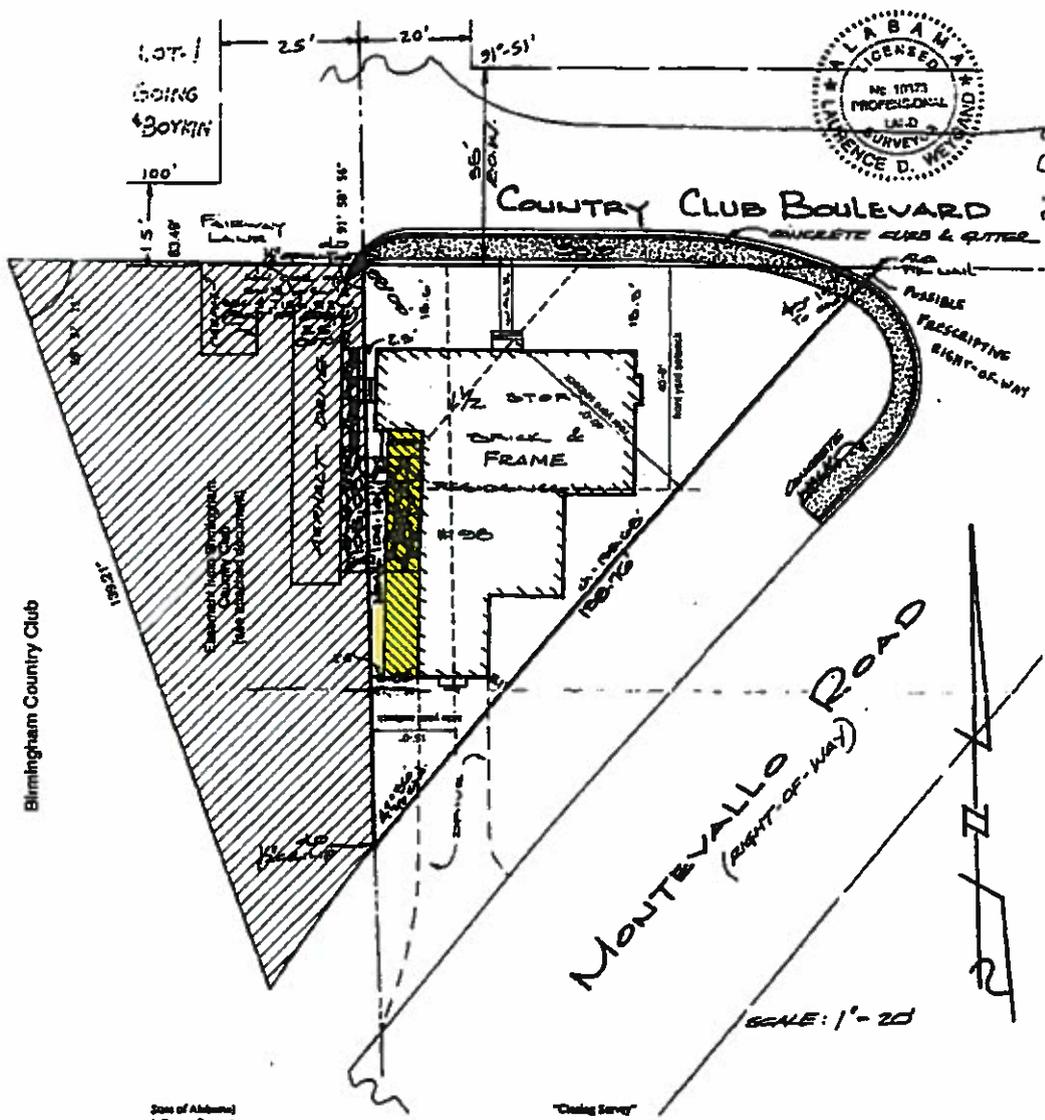
- 1.2 Due to the extremely limiting nature of the property this variance is needed to achieve a reasonable living space for the Robinett family.
- 1.3 No.
- 1.4 The proposed home will be of modest size by today's standards and will meet all of the zoning requirements except the setbacks.

Alterations & Additions to the
Residence of Mr. & Mrs. Ed Goodwin
Mountain Brook, Alabama

City and
Associates, Inc.
Architects
1000 North Loop West
Houston, Texas 77007
Telephone
713-621-1111

100
1
1

Proposed Site Plan



Birmingham Country Club

approved variance #3811 5/14/07

State of Alabama
Jefferson County

I, Lawrence D. Weggend, a registered Engineer-Land Surveyor, or Ray Weggend, a registered Land Surveyor, certify that I have surveyed the land shown and described herein; that there are no rights-of-way, easements, or joint driveways over or across said land visible on the surface except as shown; that there are no electric or telephone wires (including wires which serve premises only) or structures or supports therefor, including poles, support and guy wires, on or over said premises except as shown; that I have examined the Public Records Administration Final Record Boundary Map and found that this property is not located in a special flood hazard area; that there are no encroachments on said lot except as shown and that improvements are located as shown. I hereby state that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information and belief. Note: (a) No title search of the public records has been performed by the firm and had shown herein was not obtained for the purposes and/or rights-of-way, recorded or unrecorded. The parcel shown herein is subject to encroachments, easements, liens, and encumbrances that may be found in the public records of said county and/or city. (b) All bearings, angles, and distances are double-checked and noted unless otherwise noted. (c) Underground portions of foundations, utilities, and other underground structures were not located unless otherwise noted. We do not look for underground pipes or any similar cover. (d) The shown north arrow is based on an assumed meridian from a well defined line.

Part of the SW 1/4 of the SW 1/4 of Section 4, Township 18 South, Range 2 West, Jefferson County, Alabama, lying southwest of the Northwest right-of-way line of Montevallo Road, more particularly described as follows:

Beginning at the Northwest corner of the SW 1/4 of the SW 1/4 of said Section 4 and run thence south along the West line thereof 102.89 feet to the Northwest right-of-way line of Montevallo Road; thence in a northerly direction along said right-of-way line 122.76 feet to intersection of said right-of-way line with the North line of said SW 1/4 of the SW 1/4 of said Section 4; thence west along the North line of said SW 1/4 of the SW 1/4 a distance of 103.3 feet to the point of beginning.

According to my survey of C. APRIL 5, 2007
Order No. 24259
Folio: 25-2000-1000
Address: 2000 10th Avenue
Post Office: 35202-0576
Survey made if not noted to read.

Lawrence D. Weggend
Ray Weggend, Reg. P.E. 15010573
Ray Weggend, Reg. L.S. 20472
149 Chesser Road, P.O. Box 2086
Montevallo, AL 35226 © Copyright

Sec 5, Stormwater Ord.

- e. **Single Lot Development.** Development of single lots shall be in accord with applicable provisions of the zoning ordinance, provided that the maximum impervious area shall be limited to the maximum building area permitted for the use in question by the zoning ordinance, plus an additional five (5) percent of the parcel on which the project is to be constructed. For purposes of this ordinance, impervious area shall be defined as the developed area of the lot, including house and appurtenant structures, as well as surfaces that do not allow the free passage of water through the material into the ground. Impervious area shall include, without limitation, sidewalks, driveways, parking areas, decks, and patios, unless such surfaces are constructed of materials that allow passage of water into the ground at a rate equal to the predeveloped condition. The percentage of building and impervious areas shall not exceed that allowed by this ordinance unless an approved method of storm water detention or landscaping is used to mitigate increases in storm water runoff. If storm water detention is used, the design shall comply with the minimum requirements set forth in this ordinance. If landscaping and/or plantings are used, the design shall be performed by a registered architect, landscape architect, or engineer, and shall include plans, details, and calculations demonstrating compliance with the requirements of this ordinance.
- f. **Dry Reservoirs.** Wet weather ponds or dry reservoirs shall be designed with appropriate safety, stability, and ease of maintenance features, and shall not exceed five (5) feet in depth. Maximum side slopes for grassed reservoirs shall not exceed one (1) foot vertical for two (2) foot horizontal (2:1) unless adequate measures are included to provide for the above-noted features. In no case shall the limits of maximum ponding elevation be closer than thirty (30) feet horizontally from any building and less than two (2) feet (vertically) below the lowest sill elevation of any building to be located on the parcel to be developed. The entire reservoir area shall be seeded, fertilized and mulched, sodded, or paved prior to release of surety if required by the City. Wet weather ponds or dry reservoirs shall be enclosed by fencing a minimum of six (6) feet high, with one (1) gate and lock provided. The applicant is encouraged to use a fencing material aesthetically compatible with the surrounding area and the development.
- g. **Open Channels.** Normally permitted open channels may be used as detention areas provided that the limits of the maximum ponding elevation are not closer than thirty (30) feet horizontally from any buildings, and not less than two (2) feet (vertically) below the lowest sill elevation of any building to be located on the parcel to be developed. No ponding will be permitted within public road rights-of-way. Maximum depth of detention in open channels shall be five (5) feet.

For trapezoidal sections, the maximum side slopes of the detention area of the channel shall not exceed one (1) foot vertical for two (2) feet horizontal (2:1). Safety, stability, and ease of maintenance shall be incorporated into channel section design.

STATE OF ALABAMA)

9 6 1 3 / 7 7 7 0

JEFFERSON COUNTY)

EASEMENT AGREEMENT

This is an Easement Agreement (the "Agreement") by and between **THE COUNTRY CLUB OF BIRMINGHAM** (the "Grantor") and **HELEN F. TAYLOR** (the "Grantee").

RECITALS:

A. Grantee owns property used as her residence located at 98 Country Club Boulevard, Birmingham, Alabama 35223, which is more particularly described on Exhibit A attached hereto (the "Grantee's Property").

B. Grantor owns property lying immediately to the West of and adjacent to Grantee's Property, which is more particularly described on Exhibit B attached hereto (the "Subject Property").

C. Grantee has used the Subject Property as a backyard for approximately thirty-three (33) years with Grantor's permission.

D. Grantor desires to grant to Grantee an exclusive, perpetual easement upon the Subject Property to permit Grantee's continued use and enjoyment of the Subject Property as her backyard subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, Grantor and Grantee hereby agree as follows:

1. Grant of Easement:

(a) Grantor hereby grants unto Grantee, her heirs, executors, administrators, assigns, tenants and invitees (individually, a "Benefitted Party" and collectively, the "Benefitted Parties"), an exclusive, perpetual easement upon the Subject Property (the "Easement") for the use and benefit of Grantee as her backyard and for purposes of parking, access to and from Grantee's Property including a driveway, and the planting of trees, shrubs, flowers and other organic landscaping together with the right to maintain existing structures on the Property. Grantee covenants that the Easement and Subject Property will not be used or developed for or used in connection with commercial purposes, provided that such prohibition shall not prevent a tenant of the dwelling located on Grantee's Property from using the Easement or repairing and maintaining the existing driveway on the Subject Property.

(b) Subject to the provisions of paragraph (c) below, this Easement is and shall be a covenant running with the land and shall constitute a burden on the Subject Property for the benefit of Grantee's Property and shall inure to the benefit of Grantee

and the Benefitted Parties and may be assigned by Grantee in connection with the conveyance of Grantee's Property.

(c) Grantee agrees for herself and all Benefitted Parties that the Easement is granted on condition that and provided that Grantee and each Benefitted Party shall strictly comply with the terms and conditions of this Agreement. If Grantee or any other Benefitted Party shall fail to comply with any such term or condition then Grantor, after written notice to Grantee or other Benefitted Party, shall have a right of entry and power of termination of the Easement, provided, however, that Grantee shall have a period of not less than thirty (30) days after receipt of such written notice in which to cure any noncompliance, and if such noncompliance is not reasonably capable of being cured within such thirty (30) days period, such period shall be extended for so long as Grantee or other Benefitted Party is proceeding with reasonable diligence to cure such noncompliance.

2. **Indemnity:** Grantee agrees to and does hereby indemnify, protect and hold harmless Grantor from and against any and all damages, losses, claims, suits, judgments, decrees, costs and expenses, including attorneys' fees and other legal costs, incurred by or imposed on Grantor resulting directly or indirectly from Grantee's use and enjoyment of the Easement including, without limitation, any injury to or death of any person, any damage to any property of any person and any violation of any federal, state or local statute, ordinance, code, rule, regulation or other law or legal requirement occurring upon the Subject Property.

3. **Representations and Warranties of Grantor:** The party executing this Agreement on behalf of Grantor represents that he has full power and authority to execute this Agreement and to bind Grantor to its terms.

4. **Waiver of Adverse Possession Claim:** As an inducement to Grantor to grant the Easement, Grantee hereby waives any right she may have to claim any right, title or interest in or to any portion of the Subject Property pursuant to the doctrines of adverse possession and prescription. It is further acknowledged and agreed by Grantee that the grant of the Easement shall in no way limit Grantor's use of Grantor's property adjacent to the Subject Property and that any applicable minimum yard depths, building or setback lines, or similar restrictions shall continue to be calculated by reference to the common boundary line of the Subject Property and Grantor's Property and not the common boundary line of the Subject Property and Grantor's property adjacent to the Subject Property.

5. **Notice:** Any notice required to be given pursuant to this Agreement shall be in writing and delivered in person or by certified mail, return receipt requested, addressed as follows:

Grantee:

Helen F. Taylor
98 Country Club Boulevard
Birmingham, AL 35213

Grantor:

The Country Club of Birmingham
P.O. BOX 130280
BIRMINGHAM, AL 35213

6. **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, administrators, successors and assigns, as the case may be.

7. **Governing Law:** This Agreement shall be construed and enforced in accordance with the laws of the State of Alabama.

8. **Entire Agreement:** This Agreement and the Exhibits attached hereto constitute the entire Agreement and understanding between the parties with respect to the subject matter and supersedes all prior agreements and understandings.

9. **Amendment:** This Agreement may not be amended except by the execution of an instrument signed by Grantor and Grantee and filed in the Office of the Judge of Probate of Jefferson County, Alabama.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Easement Agreement to be executed this 6th day of November, 1996.

THE COUNTRY CLUB OF BIRMINGHAM

By: James F. Hughes
Its: PRESIDENT

Helen F. Taylor
HELEN F. TAYLOR

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that James F. Hughey, Jr., whose name as President of **THE COUNTRY CLUB OF BIRMINGHAM**, an Alabama _____, is signed to the foregoing Easement Agreement and who is known to me, acknowledged before me on this day that, being informed of the contents of the Easement Agreement, he, in his capacity as such President and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand this the 7th day of November, 1996.

Carol M. Turner

Notary Public

My Commission Expires: 7/27/2000

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **HELEN F. TAYLOR**, whose name is signed to the foregoing easement agreement, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Easement Agreement, she executed the same voluntarily on the day the same bears date.

Given under my hand this 18th day of November, 1996.

Kathleen L. Bruch

Notary Public

My Commission Expires: MY COMMISSION EXPIRES FEBRUARY 28, 1998

EXHIBIT B

STATE OF ALABAMA
JEFFERSON COUNTY

A parcel of land situated in the Southeast 1/4 of the Southeast 1/4 of Section 5, Township 18 South, Range 2 West, Jefferson County, Alabama, being more particularly described as follows:

Begin at the Northeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 5, Township 18 South, Range 2 West, Jefferson County, Alabama (as marked by a 2" iron pipe) and run in a Southerly direction along the East line of said section a distance of 105.13 feet to a 1" crimped iron pipe on the Northwesterly right of way of Montevallo Road; thence turn an interior angle of 142°18'50" and run to the right in a Southwesterly direction along said right of way a distance of 31.12 feet; thence turn an interior angle of 56°18'02" and run to the right in a Northwesterly direction a distance of 139.21 feet to the North line of said 1/4-1/4 section; thence turn an interior angle of 69°32'11" and run to the right in an Easterly direction along said North line a distance of 63.49 feet to the point of beginning.

State of Alabama - Jefferson County

I certify this instrument filed on:

1996 NOV 21 P.M. 16:10

Recorded and \$

.50

Mfg. Tax

and \$

19.50

Dead Tax and Fee Amt

20.00

\$

Total \$

GEORGE E. REYNOLDS, Judge of Probate



9613/7770

EXHIBIT A

Grantee's Property

Begin at the Northwest corner of the Southwest quarter of the Southwest quarter of Section 4, Township 18, South, Range 2 West, thence south along the West line of said quarter-quarter section 105.09 feet to an intersection with the northwesterly right of way line of the Montevallo Road; thence in a Northeasterly direction along the said right of way line 138.76 feet to an intersection with the North line of said Southwest quarter of Southwest quarter of said Section 4; thence West along the North line of said quarter-quarter section 93.9 feet to the point of beginning; situated in Jefferson County, Alabama.

Subject to easement, if any, in favor of Jefferson County, Alabama, for a public road, as shown by map of Montevallo Road, dated September 29, 1929, and recorded in Map Book 19, Pages 34 and 36, in the Office of the Judge of Probate of Jefferson County, Alabama.



A-15-08

