

**PLANNING AND ZONING  
BOARD OF ADJUSTMENT NUMBER 2**

**AGENDA**

**November 4, 2021**

**Regular Meeting 3:30 p.m.**

**Baldwin County Satellite Courthouse**

**Large Meeting Hall**

**201 East Section Avenue**

**Foley, Alabama**

1. Call to Order
2. Roll Call
3. Approval of Previous Meeting Minutes (September 9, 2021)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

**ITEMS:**

**a.) Case No. AD-21003, Stevens Property**

*Request:* appealing the issuance of a Notice of Violation for the Occupancy of a Recreational Vehicle outside of a recreational vehicle park

*Location:* The subject property is located at 27020 Frank Road in Planning District 22

*Attachments:* Within Report and Attached

**b.) Case No. V-210038, Wahlbom Property**

*Request:* approval of a variance from the front setback requirement to allow for the construction of a swimming pool

*Location:* The subject property is located at 685 Bonita Court in Planning District 25

*Attachments:* Within Report and Attached

**c.) Case No. V-210039, Jones Property**

*Request:* approval of a variance from the south side yard setback requirement to allow for a walkway (deck) handicap ramp

*Location:* The subject property is located at 36490 Boykin Boulevard in Planning District 22

*Attachments:* Within Report and Attached

**d.) Case No. ZVA21-000002, Owen Property**

*Request:* approval of a variance from the wetland setback requirement to allow for the construction of a modular home

*Location:* The subject property is located at 2400 Choctaw Road in Planning District 25

*Attachments:* Within Report and Attached

**e.) Case No. ZVA21-000003, Fort Morgan Volunteer Fire Department Property**

*Request:* approval of a variance from the wetland setback requirement to allow for the construction of a new fire station

*Location:* The subject property is located at 5224 State Highway 180 in Planning District 25

*Attachments:* *Within Report and Attached*

**f.) Case No. SE-21010, Weaver Property**

*Request:* approval of a special exception to allow for an auto repair business and small auto sales business

*Location:* The subject property is located at 24488 Kichler Circle North in Planning District 22

*Attachments:* *Within Report and Attached*

6. Old Business
7. New Business
  - a.) Approval of 2022 Meeting and Deadline Calendar
8. Adjournment

**Planning & Zoning Board of Adjustment Number 2**  
**September 9, 2021**  
**Regular Meeting Minutes**  
**Foley Satellite Courthouse, Large Meeting Room**

The Board of Adjustment Number 2 met in a regular session on September 9, 2021 at 3:30 p.m., in the Baldwin County Foley Satellite Courthouse Large Meeting Room. Chairman, Ernie Church called the meeting to order. Members present included: Samuel Mitchell, Theron Mashburn, Michael Swansburg, John Slaats, John Hilderbrandt and Johanna Moloney. Staff members present were Paula Bonner, Planning Technician, and Linda Lee, Planner.

**Approval of Previous Meeting Minutes**

The first order of business was approval of the minutes from the August 12, 2021 meeting. Mr. Mitchell made a motion to approve the meeting minutes. The motion received a second from Ms. Moloney and carried unanimously.

**AD-21002 Harper Property**

Chairman Church presented the applicant's request to withdraw the application. Due to the request being submitted less than two (2) days prior to the meeting the board had to vote to accept the withdrawal request.

Mr. Mashburn made a motion to approve the withdrawal request. The motion received a second from Mr. Mitchell and carried unanimously.

**SE-21007 Hyche Imagination LLC Property**

Mrs. Lee presented the applicant's request for approval of a special exception to allow for an RV park. Staff received fourteen letters in opposition to the request. Due to the residential uses adjacent to the subject property staff felt this is not an appropriate location for an RV Park and recommended the applicant's special exception request be **DENIED**. Staff stated conditions to be considered if the board approved the request.

Mr. David Dichiara, engineer for the project, answered questions from the board.

Ms. Karen Smith, Mr. Klaus Gehringer and Mr. Patrick McAuliffe spoke in opposition to the special exception request.

Following a lengthy discussion, Mr. Swansburg made a motion to deny the variance request. The motion received a second from Mr. Mitchell and carried unanimously.

**SE-21008 Fowler Property**

Mrs. Lee presented the applicant's request for special exception approval to allow for an increase to structure size for a previously approved RV and Boat Storage Facility. Staff had no issues with the increase in size of the structures and recommended that the requested change in size be **APPROVED**.

Mr. John Barker spoke in favor of the special exception request.

Mr. Mitchell made a motion to approve the special exception request. The motion received a second from Mr. Hilderbrandt and carried unanimously.

**V-210032 Jordan Property**

Mrs. Bonner presented the applicant's request for approval of a variance from the side yard setback requirement to allow for a single-family dwelling. Per the applicant the purpose of the variance is to prevent them having to cut down an oak tree. Staff recommended the board base its decision on information provided in the staff report and at the public hearing.

Ms. Denice Stout Stout spoke in opposition of the variance request and answered questions from the board.

Mr. Chase Robinson and Mr. Terrance Jordan spoke in favor of the variance request and answered questions from the board.

Following a lengthy discussion, Mr. Swansburg made a motion to approve a variance of 3 feet (structure will be 7 feet from the fence). The motion received a second from Mr. Mashburn and carried unanimously.

**Adjournment**

There being no further business to come before the board the meeting was adjourned at 4:45 p.m.

Respectfully Submitted,

Linda Lee, Planner

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I hereby certify that the above minutes are true, correct and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Ernie Church, Chairman





## Baldwin County Planning & Zoning Department

### Board of Adjustment Staff Report

Case No. AD-21003

Stevens Property

Appeal of Administrative Decision (Notice of Violation for occupying a recreational vehicle outside of a recreational vehicle park)

November 4, 2021

### Subject Property Information

**Planning District:** 22  
**General Location:** East of Breman Rd, south of Frank Rd, in Elberta  
**Physical Address:** 27020 Frank Road  
**Parcel Number:** 05-53-05-22-0-000-003.002  
**Existing Zoning:** RA, Rural Agriculture District  
**Existing Land Use:** Occupying RVs  
**Square Footage:** 3 acres ±  
**Appellant:** Mark and Cynthia Stevens  
27020 Frank Rd  
Elberta, AL 36530  
**Owner:** Same  
**Lead Staff:** Orie King, Code Enforcement Officer  
**Attachments:** *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RA, Rural Agriculture District
South	Residential	RA, Rural Agriculture District
East	Residential	RA, Rural Agriculture District
West	Residential	RA, Rural Agriculture District

### Summary and Recommendation

Planning and Zoning received a complaint for this property on 7/07/2021. After an investigation the code enforcement officer felt there was enough evidence to issue a NOV "Notice of Violation" for occupying a recreational vehicle outside of a recreational vehicle park. Also, included in the NOV was a violation for constructing a metal building without a Land Use Certificate. However, we later found that the property owner was approved for a Land Use certificate (LU-190027) to build the metal garage/shop. The issue was the original Land Use application referenced the parent parcel and not the current lot parcel number.

The zoning ordinance specifically says, "a recreational vehicle shall not be occupied as a living quarter unless it is located in a recreational vehicle park". Based on this regulation staff recommends that the Notice of Violation for occupying RVs outside of a recreational RV park be **UPHELD** and the appeal **DENIED**, and the property owner unhook the RVs from utilities and stop occupying them within 30 days of this meeting. \*

*\*A majority vote of the members of the Board will be necessary to reverse the administrative decision (issuance of the Notice of Violation).*

## Current Zoning Requirements

### Section 13.8 Recreational Vehicle (RV) Parks

13.8.1 Purpose. The purpose of this section is to establish minimum standards for recreational vehicle parks.

13.8.2 Procedures and standards.

(a) Land use certificate required. All recreational vehicle parks are subject to the standards contained in this section and will be required to obtain a land use certificate prior to being granted building permit.

(b) Where permitted. Except as provided in Section 2.3.26.4(b) and Section

2.3.31.4, recreational vehicle parks are permitted as follows:

1. High Density

- A. RV-1, B-4, M-1 and M-2 by right.
- B. B-3 by conditional use approval.
- C. RR, RA and CR by special exception approval.

2. Low Density

- A. RV-1, RV-2, B-4, M-1 and M-2 by right.
- B. B-2, B-3 and OR by conditional use approval.
- C. RR, RA and CR by special exception approval.

(c) Occupancy. A recreational vehicle shall not be occupied as a living quarter unless it is located in a recreational vehicle park as herein provided or as provided in Section 12.2.2. No recreational vehicle shall be used as a permanent dwelling. Continuous occupancy extending beyond 4 months in any 12-month period shall be considered permanent occupancy.

(d) Storage and parking. Recreational vehicles may be parked or stored in residential districts as provided in Section 15.3.9: Storage and parking of trailers and commercial vehicles.

## Appeals to the Board of Adjustment Information

The Baldwin County Zoning Ordinance expressly provides for an appeals process when it is believed that the Zoning Administrator (Planning Director), or other administrative official, has erred in any “order, requirement, decision, or determination”.

### Section 18.5 Appeals to the Board of Adjustment

18.5.1 The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or other administrative official in the enforcement of these zoning ordinances.

18.5.2 Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the County in an official capacity in the enforcement of these zoning ordinances. Such appeal shall be taken within 30 days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a

notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

18.5.3 An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court of Record on application and notice to the officer from whom the appeal is taken and on due cause shown.

### Property Image









# Locator Map



# Site Map



# NOTICE OF ZONING VIOLATION

Baldwin County Planning and Zoning Department

## Certified Mail

Date of Notice August 18, 2021

Mark and Cynthia Stevens  
26210 Norman Woerner Ln  
Elberta, AL 36530

RE: 21-005600

## YOU ARE HEREBY NOTIFIED THAT:

Pursuant to the Baldwin County Zoning Ordinance, Sec. 21.3, notice is hereby given that you are in **violation** of the *Baldwin County Zoning Ordinance*.

## LOCATION OF VIOLATION:

The subject property is situated in Planning District 22, and is zoned RA Rural Agricultural District, and is located at:

Street Address:	27020 Frank Road
Tax Parcel#:	<u>05-53-05-22-0-000-003.002</u>
Date of Inspection	<u>August 16, 2021</u>

## NATURE OF VIOLATION:

**“Recreational Vehicles” are parked on the subject property and are being occupied.**

According to the Baldwin County Zoning Ordinance, “Recreational vehicles” shall not be occupied as a living quarter unless it is located in a recreational vehicle park as herein provided or as provided in Section 12.2.2.

**A “metal building” was constructed without a Land Use permit.**

According to the Baldwin County Zoning Ordinance, A land use certificate shall be obtained from the Zoning Administrator prior to the commencement of development and issuance of any building permit including electrical, HVAC and plumbing permits.

## CORRECTIVE ACTION:

**Discontinue occupying the recreational vehicle within 30 days of receipt of this notice. The recreational vehicles may not be connected to utilities. Submit a complete Land Use Application for the stated**

construction within 15 days of receipt of this notice of violation. Application materials may be obtained from the offices of the Baldwin County Planning and Zoning Department or from the Baldwin County website ([baldwincountyal.gov](http://baldwincountyal.gov)).

## **Baldwin County Zoning Ordinances**

### **Article XII General Requirements**

#### **Section 12.2 Temporary Structures**

12.2.1 Temporary structures for use incidental to construction work shall be permitted in any district during the period that construction work is in progress.

12.2.2 A recreational vehicle may be occupied as living quarters on a temporary basis for up to 18 months pending the repair or rebuilding of a primary dwelling following any disaster which may render the primary dwelling uninhabitable. A recreational vehicle, when used as temporary living quarters, may only be occupied by the owner/occupant of the primary dwelling being repaired or rebuilt, and must be located on the same parcel with the subject primary dwelling. In addition, the recreational vehicle must meet the location and setback requirements specified for accessory structures in residential districts (See Section 13.1.2 (a). An approved land use certificate (See Section 18.2) shall be obtained from the Planning and Zoning Department, prior to the use of a recreational vehicle as temporary living quarters in order to ensure compliance with these regulations.

### **Article 13 Design Standards**

#### **Section 13.8 Recreational Vehicle (RV) Parks**

##### **13.8.2 Procedures and standards.**

(c) *Occupancy.* A recreational vehicle shall not be occupied as a living quarter unless it is located in a recreational vehicle park as herein provided or as provided in *Section 12.2.2*. No recreational vehicle shall be used as a permanent dwelling. Continuous occupancy extending beyond 4 months in any 12 month period shall be considered permanent occupancy.

### **Article 18 Administration**

#### **Section 18.1 Administration, Interpretation and Enforcement**

#### **Section 18.2 Land Use Certificates**

**18.2.1 Authorization.** A land use certificate shall be obtained from the Zoning Administrator prior to the commencement of development and issuance of any building permit including electrical, HVAC and plumbing permits.

## ENFORCEMENT PENALTIES:

Failure to comply within the time specified above will subject you to penalties in accordance with Sec. 21.3 and Sec. 21.4 of the *Baldwin County Zoning Ordinances*

21.3.8 Fines. Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation. The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

If you believe the activities or conditions described above are not in violation of the *Baldwin County Zoning Regulations*, you may provide supporting documentation or other materials to the Planning and Zoning Department at 312 Courthouse Square, Bay Minette, Alabama, 36507, within 7 days of receipt of this notice.

- Please note: This determination may be appealed to the appropriate Board of Adjustment. Appeals shall be filed within (15) fifteen days of the Date of Notice above, on forms provided by the Planning and Zoning Department. Appeals must be filed with the Board of Adjustment by delivery of the appeal form to the Planning and Zoning Director at his/her office in Robertsdale, Alabama, 22070 Highway 59, Robertsdale, Alabama 36567 (physical address) or 22251 Palmer Street, Robertsdale, Alabama 36567 (mailing address). Appeal forms are available at the Planning and Zoning Department in Robertsdale, the Foley Satellite Courthouse, or at the County website at the following address: [www.planning.co.baldwin.al.us](http://www.planning.co.baldwin.al.us). Copies of the Baldwin County Zoning Ordinance are also available at the Foley Satellite Courthouse.

Sincerely,

Orie King

Code Enforcement Officer

cc: Matthew Brown, P.E., Planning Director



**Please keep in mind when reading this message. The property owner filed an Appeal to an Administrative decision not a special exception. Even if the owner decided to request a special exception, staff would recommend denial.**

[\SKIDEEZE@worldnet.att.net](#), Steve Stachnowski [\SKIDEEZE@worldnet.att.net](#)

**Subject:** Notice of Public Hearing on Stevens Property Regarding RVs used as Living Quarters Case #AD-21003

This message has originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

To Whom It May Concern,

Regarding Case #AD-21003, we agree with the Zoning department that the Stevens Property is and has been in violation of the zoning law by having multiple RVs occupied by multiple family units. WE as a group of concerned residents of Breman and Frank roads have been concerned over this violation for some time now and appreciate the county taking action to protect the property values of this area. These RVs have been on the site well in excess of this year with no visible signs of constructing a permanent residence and personal observation suggest permanent habitation much before June of this year. To file for a special exception the applicant must meet all of the following requirements of section 18.6 as you know.

18.6.4 Standards for approval. A special exception may be approved by the Board of Adjustment only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met: (a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Baldwin County Master Plan, these ordinances, or any other official plan, program, map or ordinance of Baldwin County. (b) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location. (c) The proposed use shall not unduly decrease the value of neighboring property. (d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services

Mr. Stevens cannot successfully demonstrate compliance with items c and d above and therefore a special exemption should be denied.

Mr. Stevens also makes claims to the effect that there are other violators of this code. Mr. Stevens does not support his claims with any tangible evidence to that and that in of itself does not lend any permissible reason for his violation.

Mr Stevens is solely responsible for understanding the zoning codes as he has occupied the property for over 2 years now. He has demonstrated no effort to build a permanent dwelling and has multiple family units residing in RVs on his property. We ask the board to enforce the current code and bring this property into compliance.

Sincerely,  
Paul Hammock

Office Use Only

Case No. **LU - 190027** Accepted By: [Signature] Date: 1/11/19  
 Application Fee: \$250 ☒ Paid Check # 2204 Receipt # 10568

## Baldwin County Land Use Certificate Application

**Main Office (Mailing)**  
 22251 Palmer Street  
 Robertsdale, AL 36567  
 Phone: (251) 580-1655  
 Fax: (251) 580-1656

**Main Office (Physical)**  
 22070 Highway 59  
 Robertsdale, AL 36567  
 Phone: (251) 580-1655  
 Fax: (251) 580-1656

**Foley Office**  
 201 East Section Avenue  
 Foley, AL 36535  
 Phone: (251) 972-8523  
 Fax: (251) 972-8520

**AN APPROVED LAND USE CERTIFICATE DOES NOT CONSTITUTE APPROVAL  
FOR A BUILDING PERMIT**

### Applicant

Are you the property owner? ☒ YES ☐ NO  
 (If you are not the property owner you must submit Owner Authorization Form signed by the property owner)

Name: Cynthia J Stevens Date: 1/11/19

Mailing Address: 26210 NORMAN WERNER LN

City: ELBERTA State: AL Zip code 36530

Telephone: (251) 609-5485 Fax: ( ) - e-mail: stevensmadj@gmail.com

### Site Information

Parcel ID Number: 05-53-05-22-0-000-003-000

Physical Address (E-911): 27020 Frank Rd

Subdivision/Lot/Unit No: John Dorn Lot 1

Lot Size (acres or square feet): 3 ac. Lot Dimensions: 316 X 420

Are there existing structures on the property? ☐ YES ☒ NO

If yes, please describe: \_\_\_\_\_

### Water and Sewer Information

(Check Appropriate Box)

☒ Septic Tank System

☒ Well

☐ Sewer System

☐ Water System

Name of System: \_\_\_\_\_ Name of System: \_\_\_\_\_

(Over, Please Continue to Reverse Side)

### Project Description

Use: (Check One)

- ☐ Single Family   ☐ Two-Family   ☐ Multi-Family   ☐ Commercial  
☐ Industrial   ☐ Alterations/Repairs   ☐ Piers/Boathouse   ☒ Accessory Structure  
☐ Other (specify) \_\_\_\_\_

Description of work and the proposed use: 32' x 32' Garage / Shop 16' height

\*\*\*\*\*

This certificate is valid for a six (6) month period after date of issuance. I hereby certify that the information stated on and submitted with this application is true and correct. I also understand that the submittal of incorrect information will result in the revocation of this permit and any work performed will be at the risk of the applicant. I understand further that any changes which vary from the approved plans will result in the requirement of a new Land Use Certificate.

\* Applicant Signature: [Signature] Date: 1/11/19

Erosion Control Plan Submitted: ☐ YES ☒ NO

Proposed Installation Date: \_\_\_\_\_ License No. : \_\_\_\_\_

Comments: 3 acres

\* Preparer Signature: [Signature] Date: 1/11/19

### After application has been reviewed:

- ☐ I will pick up the approved application after I have been contacted.  
☒ I would like the approved application to be forward to the appropriate Building Inspection office.

### Office Use Only

Zoning Classification: RA Planning District: 22 Flood Zone: X

- ☐ Culvert Permit   ☐ Sewer Release   ☐ Water Release   ☒ Site Plan   ☐ Construction Plans   ☐ Agent Authorization  
☐ State Lands Permit Confirmation # \_\_\_\_\_ ☐ U.S. Army Corp. Permit   ☐ U.S. Fish & Wildlife Permit

Potential Wetlands ☒ YES ☐ NO ARB ☐ YES ☒ NO Study Area: \_\_\_\_\_ FLU District: \_\_\_\_\_

\*\*\*\*\*

Decision: ☒ APPROVED ☐ DENIED

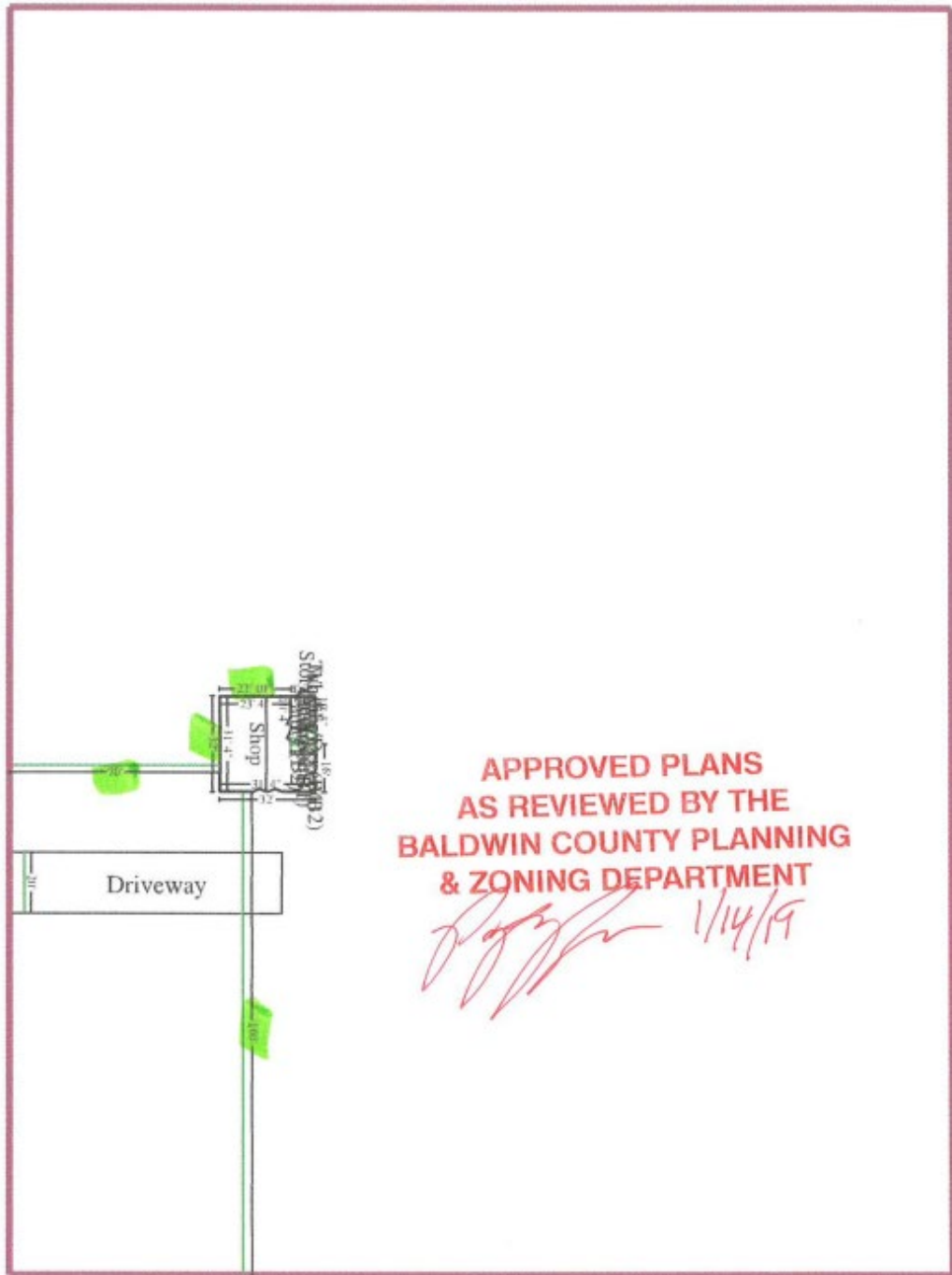
Comments: cannot exceed 35' in height from grade level to mean roof height.

Zoning Administrator (or designee) Signature: [Signature] Date: 1/14/19



BREMAN\_ROAD

Frank Road



Breman Road

1/11/2019

Page: 1

Overview



## Baldwin County Appeal of Administrative Decision

### Mailing Address

201 East Section Avenue  
Foley, AL 36532

Phone: (251) 972-8523 Fax: (251) 972-8520

### Appellant

Are you the property owner? ☒ Yes ☐ No

(If you are not the property owner, you must submit Owner Authorization Form signed by the property owner)

Appellant Name: MARK + CYNTHIA STEVENS Date: 9-1-21  
Mailing Address: 27020 FRANK RD  
City: ELBERTA State: AL Zip code: 36530  
Telephone: (251) 609-5485 Fax: ( ) - - e-mail: STEVENSMAJ@GMAIL.COM

### Owner

Name: CYNTHIA J. STEVENS Date: 9-1-21  
Mailing Address: 27020 FRANK RD  
City: ELBERTA State: AL Zip code: 36530  
Telephone: (251) 942-2085 Fax: ( ) - - e-mail: STEVENSMAJ@GMAIL.COM

### Site Information

Parcel ID Number: 05-53-05-22-0-000-003.002

Zoning Classification: RA RURAL AGRICULTURE Planning District: 22

### Appeal

Basis and Facts of Appeal: See attached

Requested Action: See attached

(Over, Please Continue to Reverse Side)

Page 1 of 2



## Conditions of the Appeals Process

- The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator or other administrative official in the enforcement of these zoning regulations.

- Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the County in an official capacity in the enforcement of these zoning regulations. Such appeal shall be taken within 30 days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

- An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court on application and notice to the officer from whom the appeal is taken and on due cause shown.

- Any party aggrieved by a final judgment or decision of the Board of Adjustment may, within 15 days thereafter, appeal therefrom to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court to which the appeal is taken, and the action of such court shall be tried de novo.

(Baldwin County Zoning Regulations Section 18.10)

\*\*\*\*\*

I have read the above conditions and understand them and agree to abide by them. I hereby certify that the information stated on and submitted with this application is true and correct. I also understand that the submittal of incorrect information will result in the revocation of any approval and any work performed will be at the risk of the applicant.

Applicant Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### Office Use Only

Date of Hearing: 10-14-2021

Board Decision: \_\_\_\_\_

Conditions: \_\_\_\_\_

Chairman's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

RE: Notice of Zoning Violation dated 8/18/21. Received by Appellant on 8/31/21 via certified mail.

**Basis and Facts of Appeal:**

A Land Use Permit was issued prior to obtaining a building permit regarding the construction of the wood-framed, detached garage on the property. We notified, in person, that we had obtained a land use permit and it was noted at that time that there must have been a clerical error on the parcel ID number. Therefore, the notice of violation is incorrect.

**Regarding use of RVs as living quarters:**

We are in the process of, and preparing to, build a dwelling on the property. We have two sons with Cerebral Palsy who need wheeled handicap accessibility. There is a shortage of housing in Baldwin County in general, and the availability of wheeled-accessible housing is non-existent.

We have been using RVs as living quarters since June 7, 2021, which is when we sold our previous dwelling. We constructed a deck and ramp to provide wheeled accessibility to the RVs, and one of the RVs is specially designed for accessibility. We have not attempted to conceal the fact of using them as living quarters, since we were not aware of the zoning prohibition of using RVs as living quarters. To note; There are several RVs being used as full-time dwellings within a mile of our property that are not in an RV park; We have seen several RVs used as living quarters during the construction of a dwelling, where no exception or special permit was issued, including the dwelling next door; We had received a verbal OK to use RVs as temporary housing from the person that we bought the property from; When we were building the detached garage on the property, the county building official asked if the storage room in the structure was to be used as a bedroom. When he was informed that we would be using RVs as temporary housing, he did not indicate a concern; When the septic system was being inspected, the county official was informed that we intended to use RVs as temporary housing, and again, there was no hesitancy in approval.

We now know that zoning ordinances do not allow for using RVs for living quarters. However, as there is no other wheeled-accessible housing available in our community, and moving away from this property will create significant undue hardship, we will be applying for a special exception for the temporary use of RVs as living quarters, while the dwelling is under construction.

**Requested action:**

We are requesting the suspension of any judicial action or fines, pending the result of further applications.



# Baldwin County Planning & Zoning Department

## Board of Adjustment #2

### Board of Adjustment Staff Report

Case No. V-210038  
Wahlbom Property  
Front Yard Setback Variance  
November 4, 2021

### Subject Property Information

Planning District: 25  
General Location: Fort Morgan  
Physical Address: 685 Bonita Court  
Parcel Number: 05-69-08-02-0-005-074.000  
Zoning: RSF-1, Single Family District  
Lot Size: 0.09 +/- Acres  
Applicant: Cox Pools of the South East  
22656 Canal Road  
Orange Beach, Alabama 36561  
Owner: David Whalbom  
Lead Staff: Paula Bonner, Planning Technician  
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Vacant	RSF-1
South	Residential	RSF-1, Single Family District
East	Vacant	RSF-1, Single Family District
West	Mobile Bay	N/A

### Summary and Recommendation

The applicant is requesting approval of a variance from the front yard setback requirements, Section 12.5.2(f) and Section 13.1.2(c) of the Baldwin County Zoning Ordinance, to allow for the construction of a swimming pool.

Staff perceives no hardship on the property due to the development of the existing single-family dwelling and considers the construction of a swimming pool a convenience not a necessity therefore recommends denial.

*\*On Variance applications, the Board of Adjustment makes the final decision*

### Variance Request

The applicant is requesting approval of a variance from the front yard setback requirements, Section 12.5.2(f) and Section 13.1.2(c) of the Baldwin County Zoning Ordinance, to allow for the construction of a swimming pool.



## Section 4.2 RSF-1, Single Family District

4.2.1 *Generally.* This zoning district is provided to afford the opportunity for the choice of a low density residential environment consisting of single family homes on large lots.

4.2.2 *Permitted uses.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses shall be permitted:

- (a) The following general industrial uses: extraction or removal of natural resources on or under land.
- (b) The following transportation, communication, and utility uses: water well (public or private).
- (c) The following agricultural uses: Silviculture.
- (d) Single family dwellings including manufactured housing and mobile homes.
- (e) Accessory structures and uses.
- (f) The following institutional use: church or similar religious facility.

4.2.3 *Conditional Uses.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

4.2.4 *Special exception.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see Section 13.10: Bed and Breakfast Establishments).

4.2.5 *Area and dimensional ordinances.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, *Section 12.4: Height Modifications*, *Section 12.5: Yard Requirements*, *Section 12.6: Coastal Areas*, *Section 12.8: Highway Construction Setbacks*, *Section 18.6 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet
Maximum Height in Habitable Stories	2 1/2
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35

## **Section 12.5 Yard Requirements**

12.5.2 Yard requirements shall be modified subject to the following conditions:

- (a) Through lots shall provide the required front yard on each street.
- (b) Decks and unroofed porches may project into a required front yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.
- (c) Uncovered steps and handicap ramps may project into a required front, or side yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.
- (d) On a corner lot, the side yard from the side lot line which abuts a street shall be a minimum of 20-feet.
- (e) Where a subdivision has been approved by the Planning Commission in accordance with the Baldwin County Subdivision Regulations prior to the enacting of zoning ordinances with front, rear or side yard setbacks different than the minimums required herein, the setbacks as recorded on the plat shall apply.

(f) All buildings or structures located within the coastal high hazard area (V-zones) shall be located 50-landward of the reach of the mean high tide.

## **Section 13 Design Standards**

13.1.2 *Residential Districts*. In residential districts an accessory use or structure will conform to the following requirements:

- (a) An accessory structure may be located in a rear or side yard but shall not be closer than 5-feet to any side or rear lot line.
- (b) An accessory structure may not be located in the front yard of a lot, except that on waterfront lots accessory structures may be located between the principal building and the waterfront property line but not within the required front yard.
- (c) An accessory structure may not exceed the height limit for the district in which it is located and may not occupy more than 30% of the rear yard.
- (d) No accessory structure, other than a pier and boathouse, may be located on a lot by itself.

## **Section 22 Definitions**

### **22.2 Words and Terms Defined**

*Accessory structure*. A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. Except as provided in Section 10.4, Wetland Protection Overlay District, bulkheads, fences, walls, retaining walls, fountains, trellises, pergolas, air conditioner platforms, walkways and similar features which provide a decorative, security or support function shall not be considered accessory structures for purposes of these zoning ordinances.

*Coastal high hazard areas (V-zones)*. Areas that are subject to high velocity waters caused by, but not limited to hurricane wave wash.

*Yard, front.* An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. **On waterfront lots the front yard shall be considered from the front line of the principal building to the waterfront property line.**

## Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

**1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.**

The subject property is approximately 80' wide along the northern side, 50' along the eastern side, 80' wide along the southern side, and 50' along the western side. The parcel consists of approximately .09 acres. The current minimum lot width for RSF-1 is 100-feet at the building line and 50-feet at the street line. The current minimum lot size for RSF-1 is 30,000 square feet and the subject parcel consists of approximately 4,000 square feet, therefore staff believes the lot could be considered exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

**2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.**

Despite the location of the subject property in a VE flood zone on Mobile Bay, the property has been developed with a single-family dwelling, therefore Staff perceives no exceptional topographic conditions or other extraordinary situations or conditions which require a variance.

**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.** The subject property, lot 3 Bonita Court Subdivision block 2, was filed with the Baldwin County Judge of Probate in 1957. Planning District 25 Zoning came into effect November 16, 1993. Per Revenue there is currently a single-family dwelling, concrete drive, and a bulkhead on the parcel. Staff perceives a swimming pool as a convenience and not a necessity for preservation of a property right that would require a variance.

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

Staff anticipates no major impacts, therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

**5.) Other matters which may be appropriate.**

Variance number V-160011 was approved on 03/10/2016 to allow for the construction of a single-family dwelling. On 03/20/2017 Land Use Certificate number LU-170177 was issued for construction of a

single-family dwelling. It appears that LU-170177 exceeded the dimensions allowed in the Notice of Action for V-160011.

### **Staff Comments and Recommendation**

Staff perceives no hardship on the property due to the development of the existing single-family dwelling and considers the construction of a swimming pool a convenience not a necessity, therefore recommends denial.

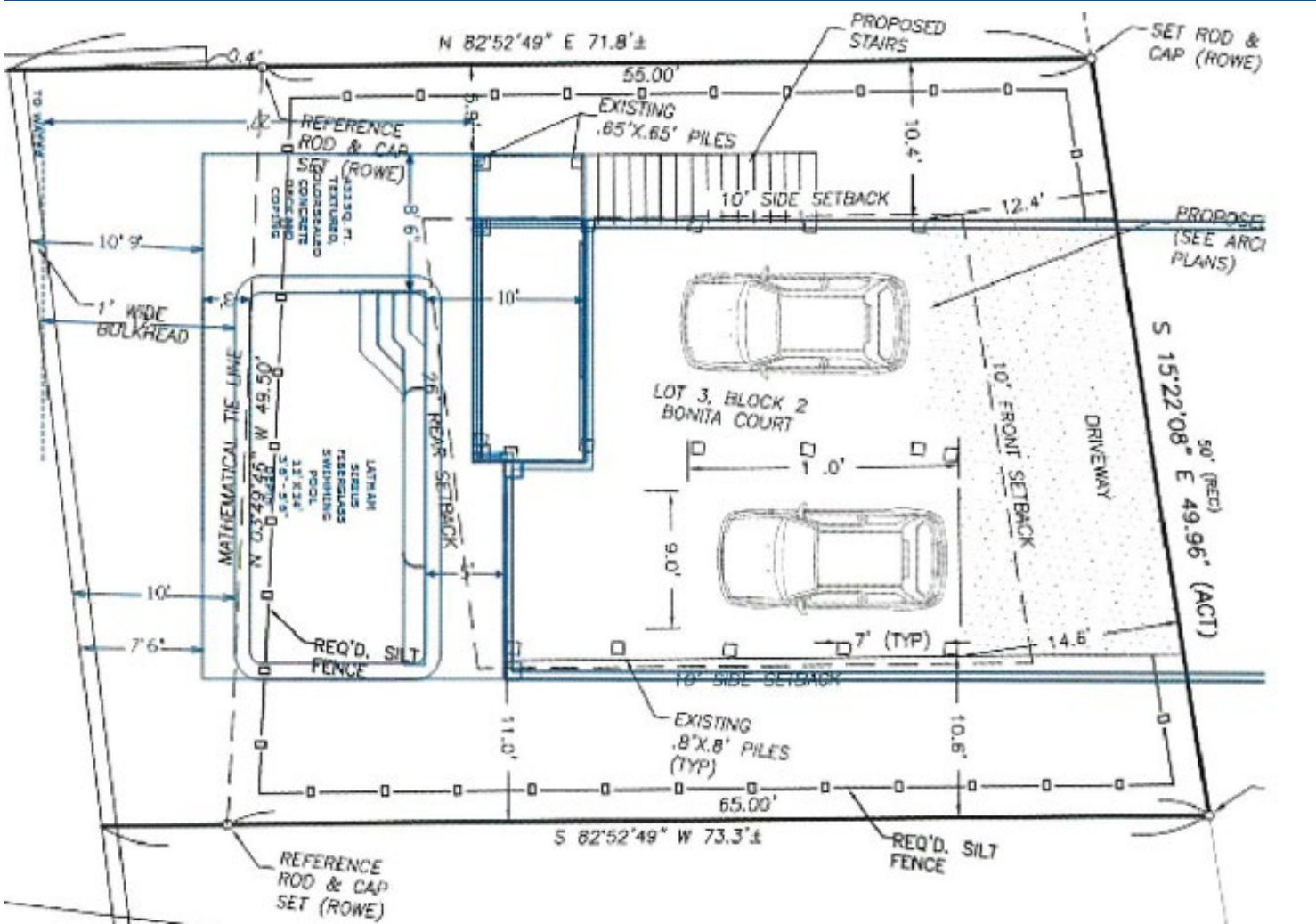
### **GENERAL NOTES {By-laws}**

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.



## Site Plan



## Property Images







Subject property



Subject property facing west



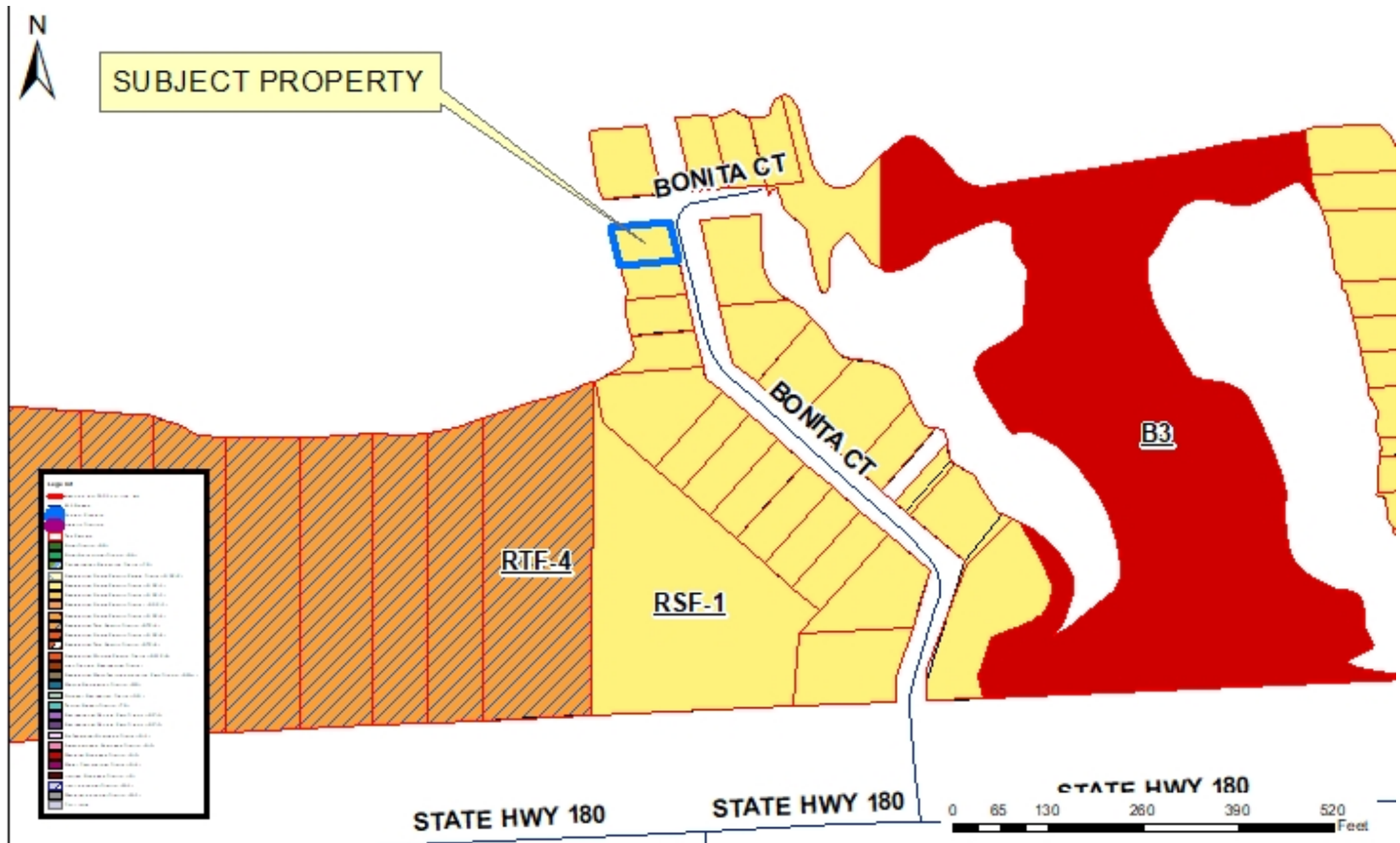








## Locator Map



## Site Map



**FT MORGAN**

**PLANNING & ZONING ADVISORY COMMITTEE**

Meeting Minutes – Oct 4, 2021

Applicant requests a variance from the rear bulkhead setback standard so a fiberglass swimming pool can be constructed on the property. Discussed the size of the proposed swimming pool. Site survey indicates a pool 22 ft x 24 ft - too large for the current setback dimensions. Update from installer verified pool size is actually 12 ft x 24 ft and will fit at the residence if the bulkhead setback variance is approved. The committee recommends approval of the variance.

**BALDWIN COUNTY PLANNING & ZONING DEPARTMENT**

**201 East Section Avenue**

**Foley, Alabama 36535**

**Telephone No: 251.972.8523**

**Fax Transmittal No: 251.972.8520**

**Website: [www.planning.co.baldwin.al.us](http://www.planning.co.baldwin.al.us)**

**BALDWIN COUNTY COMMISSION DISTRICT #4**

**BOARD OF ADJUSTMENT**

**NOTICE OF ACTION**

**MEETING DATE:** March 10, 2016

**CASE NO:** V-160011

**PARCEL NO:** 05-69-08-02-0-005-074.000

**PROPERTY LOCATION:** 691 Bonita Court

**PLANNING DISTRICT:** District 25

**ZONING DESIGNATION:** RSF-1 Single Family

**APPLICANT:** James Golden

10 Yacht Club Road

Titus, AL 36580

**OWNER:** Same

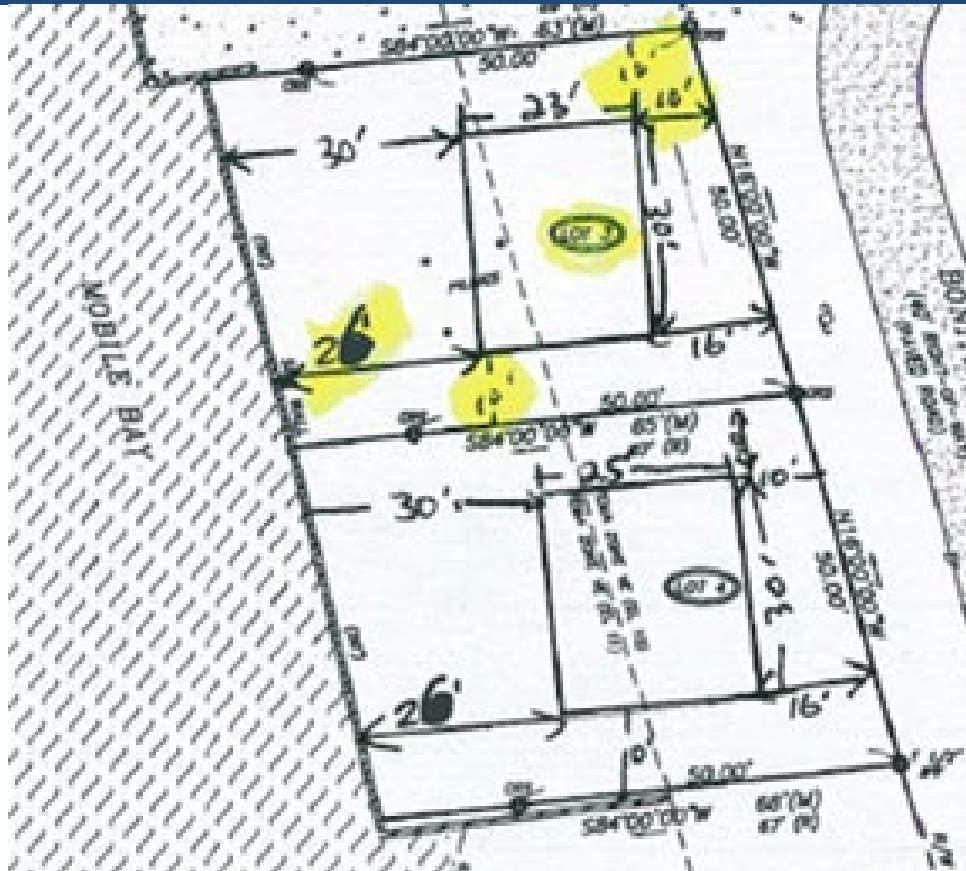
**REQUEST:** a 24 foot front yard setback variance and a 20 foot rear yard setback variance to allow for the construction of a single family dwelling

**ACTION TAKEN BY BOARD:** Approved with Conditions 1. Approval shall be limited in footprint to the size of the structure indicated on the site plan submitted, or less (Lot 3: 23' by 30') which includes any cantilevered decks. No more than two foot of roof overhang allowed. 2. The applicant must obtain a Baldwin County Land Use Certificate and building permit prior to any commencement of construction.

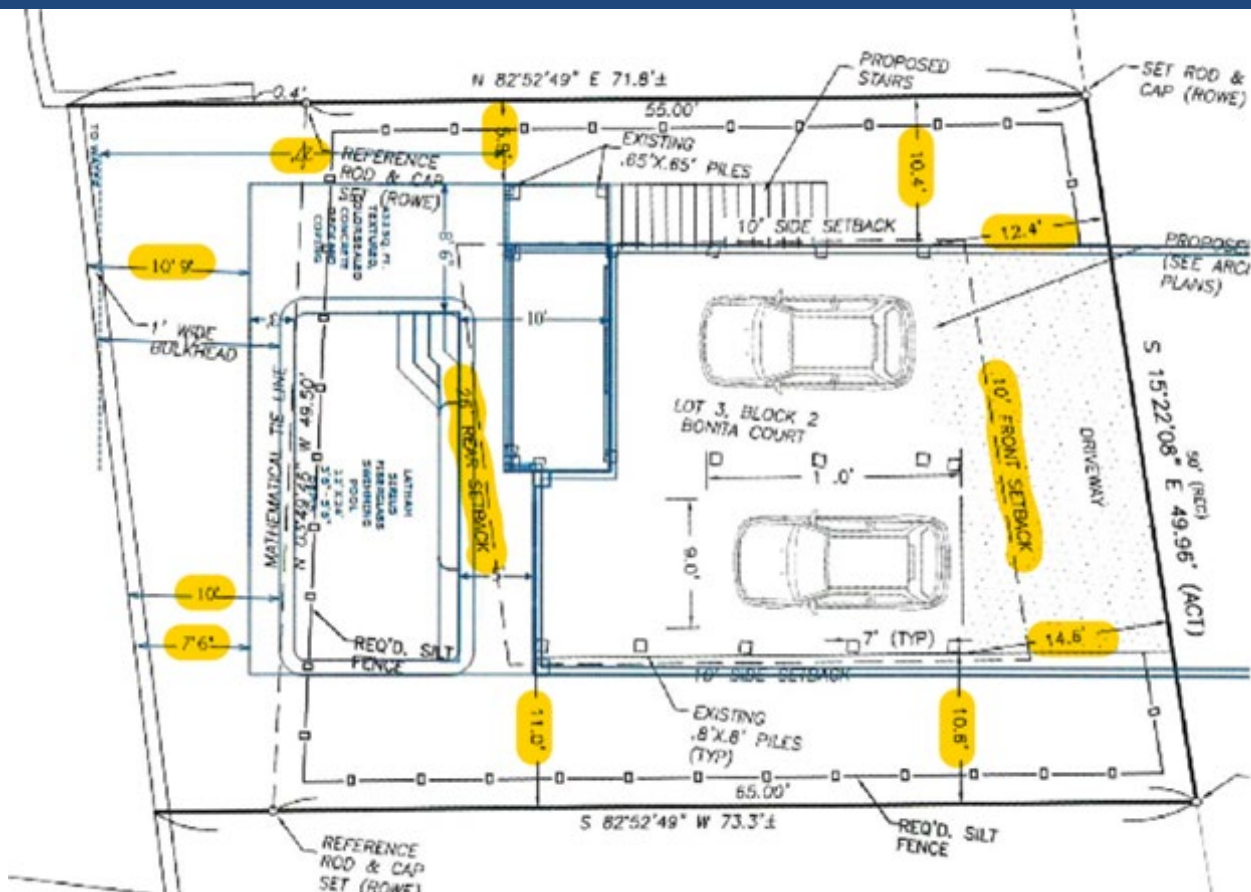


\_\_\_\_\_  
Zoning Administrator or designee

## V-160011 Approved Site Plan



## V-210038 Submitted Site Plan







# Baldwin County Planning & Zoning Department

## Board of Adjustment Number 2

### Board of Adjustment Staff Report

**Case No. V-210039**

**Jones Property**

**Variance from the Side Yard Setback Requirements to allow for a Deck/Handicap Ramp  
November 4, 2021**

### Subject Property Information

**Planning District:** 22  
**General Location:** East side of Boykin Boulevard  
**Physical Address:** 36490 Boykin Boulevard  
**PID:** 05-51-04-19-0-001-001.007  
**Zoning:** RSF-1, Residential Single Family  
**Acreage:** 0.345, more or less  
**Applicant:** Charlene Jones  
1504 Morgan Drive  
Tuscaloosa, AL 35405  
**Owner:** Charlene Jones  
**Lead Staff:** Linda Lee, Planner  
**Attachments:** *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-1, Residential Single-Family
South	Vacant	RSF-1, Residential Single-Family
East	Water	N/A
West	Undeveloped	RSF-1, Residential Single-Family

### Summary and Recommendation

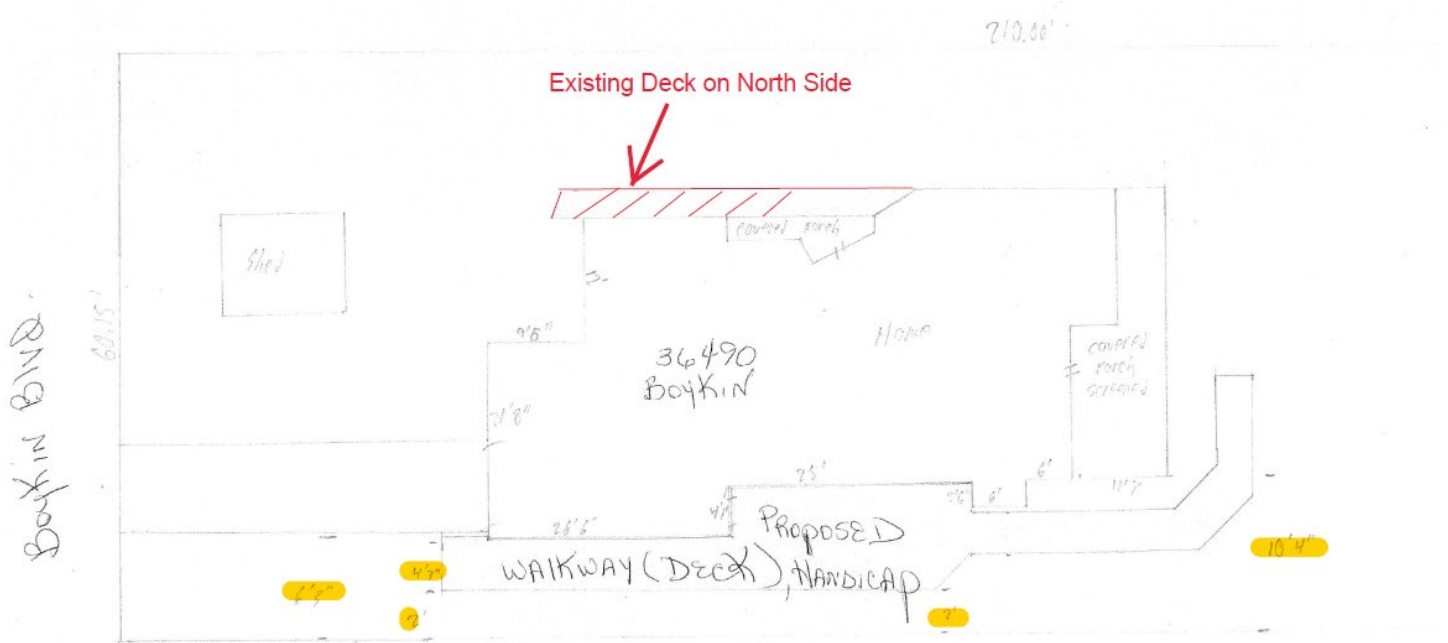
The applicant is requesting a variance from the south side yard setback requirement to allow for the construction of a deck/handicap ramp. Applicant has not submitted any information supporting a hardship on the land. Per pictures obtained from the internet staff has ascertained that a deck/handicap ramp could be located on the north side of the house. Therefore, staff recommends denial of the variance request.

### Variance Request

The applicant is requesting a variance from the south side yard setback requirement to allow for the construction of a deck/handicap ramp.

The applicant is proposing to construct a handicap ramp on the south side of the existing dwelling two (2) feet from the side property line. The Zoning Ordinance allows for a handicap ramp to extend five (5) feet into the required side yard. The existing dwelling was built in 1999 prior to the enactment of zoning in 2002 which makes the dwelling legally nonconforming.

## Proposed Site Plan



### **Additional Information**

The following sections from the *Baldwin County Zoning Ordinance* are relevant to this application:

#### **Area and Dimensional Requirements for the RSF-1 Zoning Designation**

Maximum Height of Structure in Feet	35-Feet
Maximum Height in Habitable Stories	2 1/2
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35

(b) Decks and unroofed porches may project into a required front yard for a distance not to exceed 5-feet and a required rear yard not to exceed 10-feet.

(c) Uncovered steps and handicap ramps may project into a required front, or side yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.

(d) On a corner lot, the side yard from the side lot line which abuts a street shall be a minimum of 20-feet.

(e) Where a subdivision has been approved by the Planning Commission in accordance with the *Baldwin County Subdivision Regulations* prior to the enacting of zoning ordinances with front, rear or side yard setbacks different than the minimums required herein, the setbacks as recorded on the plat shall apply.

(f) All buildings or structures located within coastal high hazard areas (V-zones) shall be located 50-feet landward of the reach of the mean high tide.

#### Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

##### **1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.**

The subject property is described as irregular lot 151 and part of lot 152 Lillian Beach Subdivision. The current dimensions of the lot are approximately 60'x271'. The lot does not meet the minimum lot width and area for property zoned RSF-1. The lot has been developed with a single-family dwelling; therefore, staff feels the size and shape of the property isn't a hindrance to adhering to the zoning requirements.

##### **2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.**

Staff is unaware of any exceptional topographic conditions or other extraordinary situations or conditions. Per the applicant there is a ditch on the north side of the property. However, the ditch did not prevent the construction of the existing deck on the north side. The contours layer does not show any excessive slope in the land. Therefore, staff believes the property does not meet the extraordinary situation or condition of a specific piece of property standard.



**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.**

The property is zoned for residential use and is currently developed with a principal dwelling. The applicant hasn't submitted any information supporting a hardship on the land. Therefore, staff feels the granting of the application is not necessary to preserve a property right.

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

Staff does not anticipate any adverse impacts, therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

**5.) Other matters which may be appropriate.**

Per the property owner, there isn't an active Property Owners Association.



### Why Do I Need a Wheel Chair Ramp-

I bought the house in June of 2020, there was a deck that had steps out of the back door of the garage and a walkway for the A/C, garbage cart and large propane tank. Because my life partner was diagnosed with cancer in July 2020, I was unable to return to the home until September 15th, the day before Hurricane Sally severely damaged or destroyed my home, back porch, garage, pier and the walkway.

In redoing the damaged areas, it was my understanding that if I was replacing something that was there before the storm, it was not necessary to get a permit. So, I hired Nick Estes, a handiman, to replace my walkway but to extend it from the driveway around to the walkway from the back porch so that it was a level walking area.

In my considerations, I took into account that I was already 74 years old, and that many of my family and friends were my age or older (several in their 80's). This thought led to the request to an ADA compliant wheelchair walkway and level walking area. I have one friend, who has Neuropathy, and is very unstable on his feet and frequently falls, particularly on uneven ground, which was the case. The wooden ramp would eliminate this issue, and be available for a wheel chair when it was needed. Since I had to rebuild the destroyed walkway, it seemed to be a good time to include this.

The lot next door was woods on the right side so there was no clear delineation of the property line. While I do not have a picture of the right side of the house before the hurricane, I am including some picture of the damaged right side after the hurricane. Hopefully, this picture will confirm my belief that the deck was not 10 feet away from the property line when I purchased the house.

I would appreciate your consideration of this variance request.

*As you can see from the pictures below, there appears to have been a ground level walkway on the south side of the dwelling not an above ground walkway.*

*There appears to have been a small deck on the southside of the dwelling, but based on the pictures submitted, it appears to have not extended pass the edge of the brick wall.*











## Staff Comments and Recommendation

As stated previously, the applicant is requesting a variance from the south side yard setback requirement to allow for the construction of a deck/handicap ramp. Applicant has not submitted any information supporting a hardship on the land. Per pictures obtained from the internet staff has ascertained that a deck/handicap ramp could be located on the north side of the house. Therefore, staff recommends **DENIAL** of the variance request.

*\* A majority vote of the board members will be necessary to approve this request.*

### **GENERAL NOTES {By-laws}**

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal there from to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.

## Pictures from Zillow



**Deck and walkway on North side of dwelling**



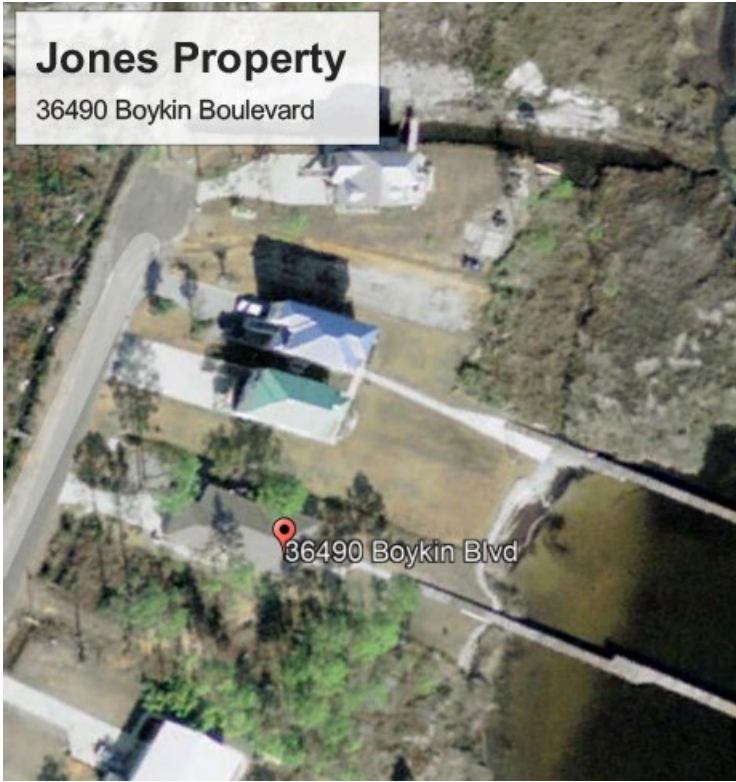


**Deck on North side of dwelling**

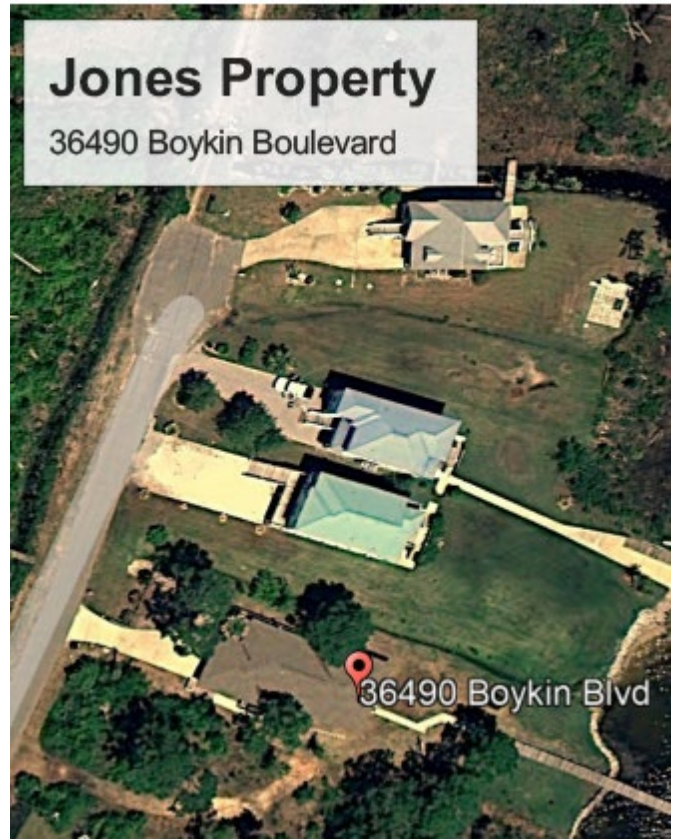


**Deck on North side of dwelling**





2007



2010



2013



November 2020





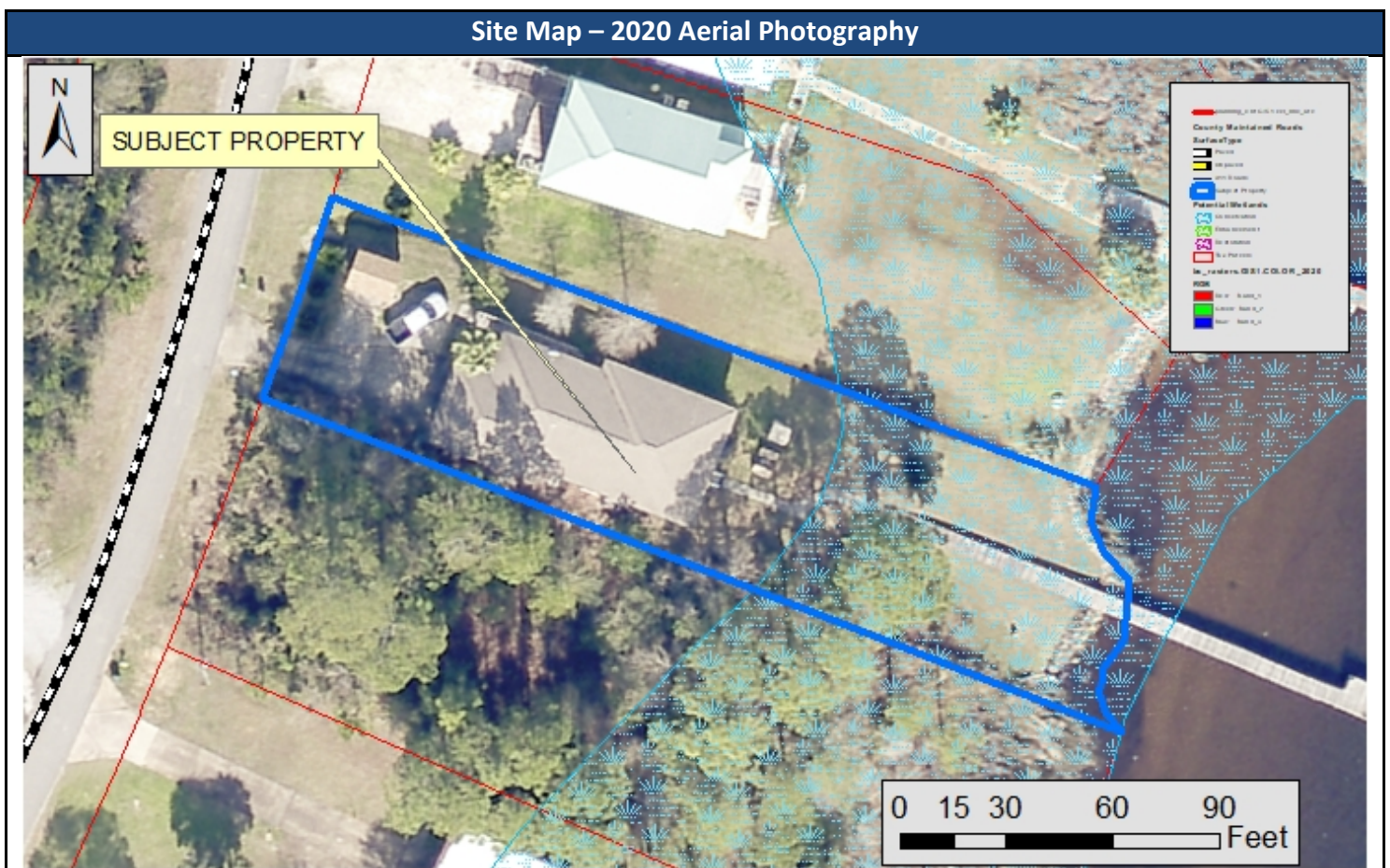
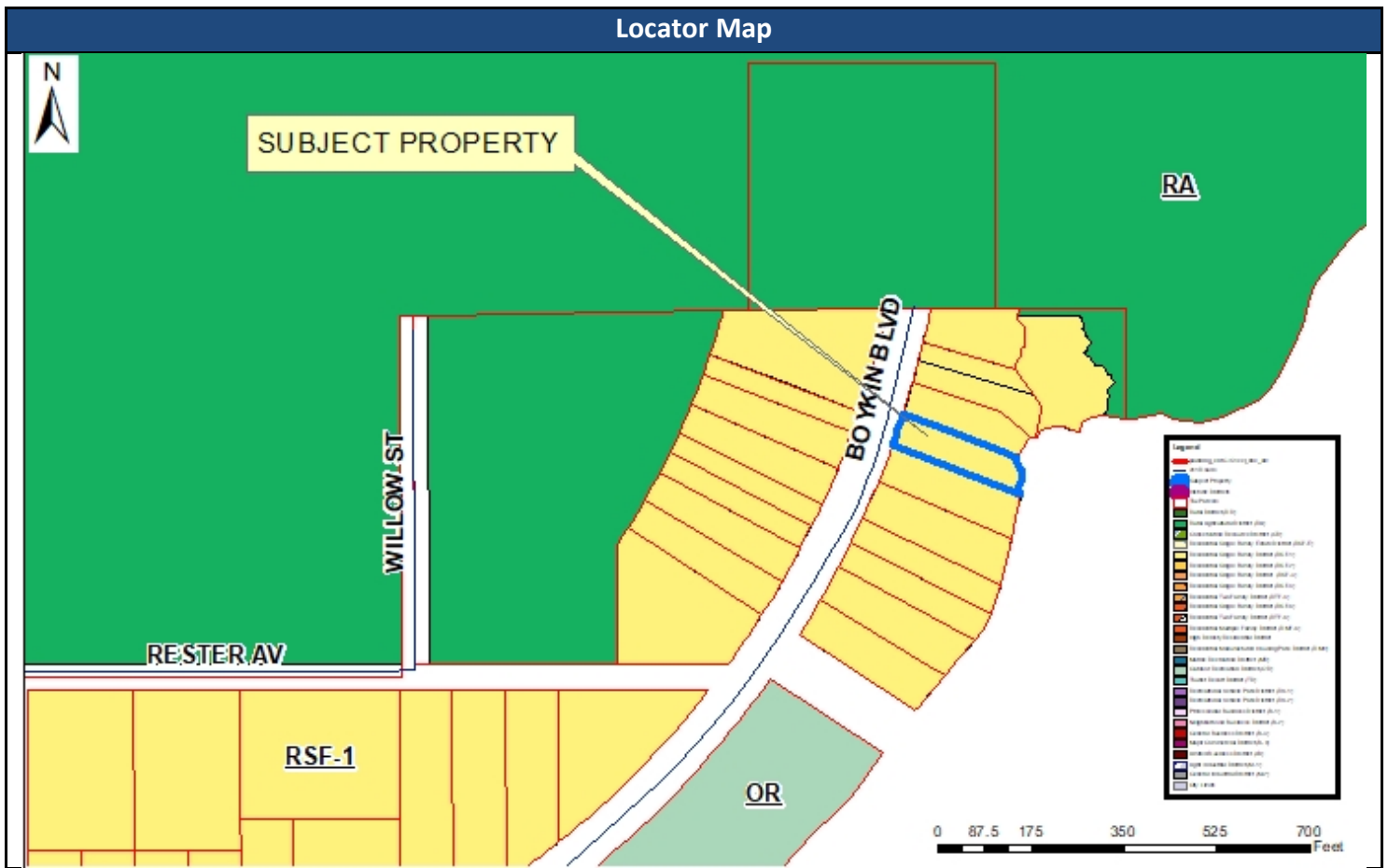
















# Baldwin County Planning & Zoning Department

## Board of Adjustment #2

### Board of Adjustment Staff Report

Case No. ZVA21-000002

Owen Property

Wetland Setback Variance

November 4, 2021

### Subject Property Information

Planning District: 25  
General Location: Fort Morgan  
Physical Address: 2400 Choctaw Road  
Parcel Number: 05-69-08-02-0-005-056.000  
Zoning: RSF-1, Single Family District  
Lot Size: 0.22 +/- Acres  
Applicant: Whitson Builders LLC  
6900 Lakeshore Drive  
Gulf Shores, Alabama 36542  
Owner: William Mark Owen  
Lead Staff: Paula Bonner, Planning Technician  
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-1, Single Family District
South	Residential	RSF-1, Single Family District
East	Residential	RSF-1, Single Family District
West	Residential	RSF-1, Single Family District

### Summary and Recommendation

The applicant is requesting approval of a variance from the jurisdictional wetlands setback requirements to allow for construction of a modular home.

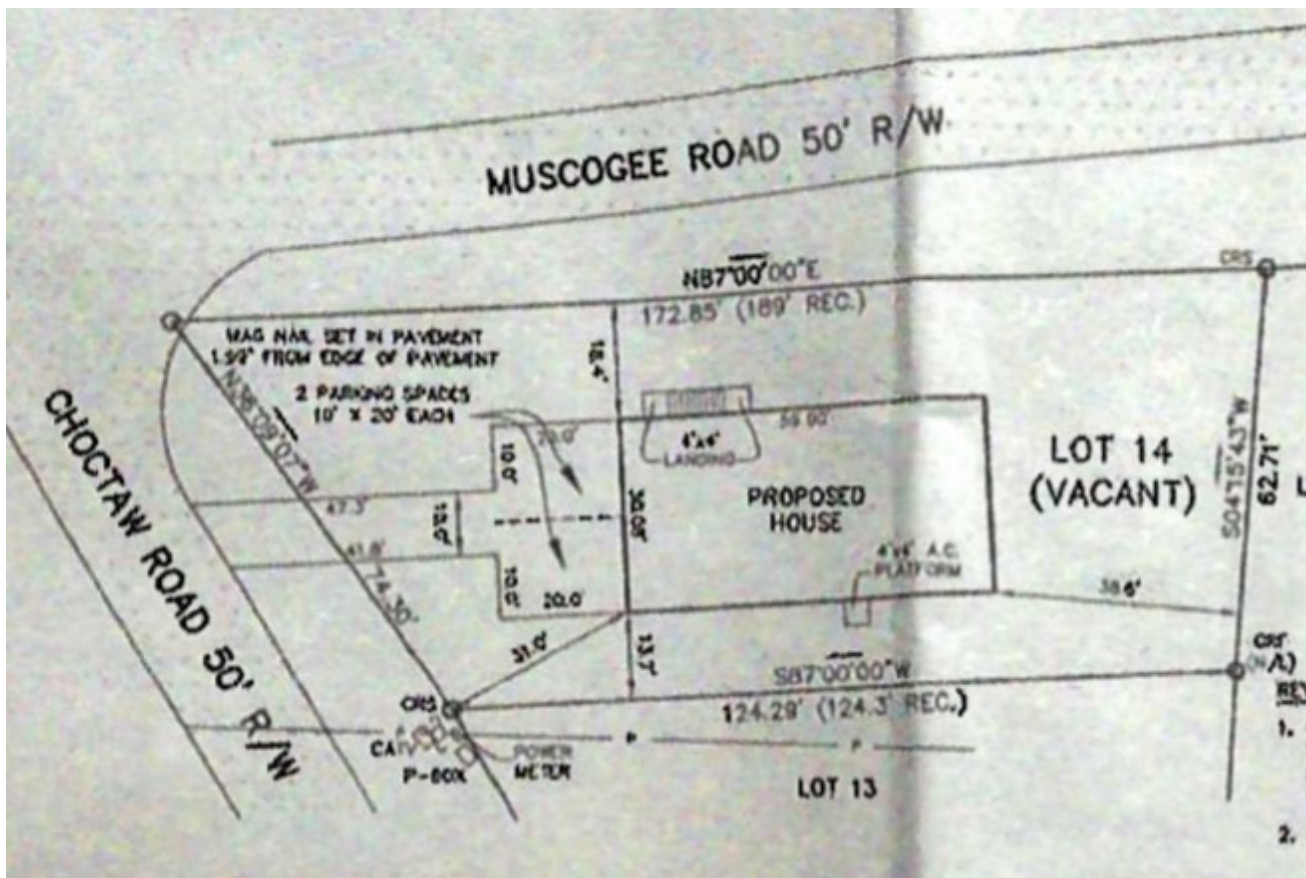
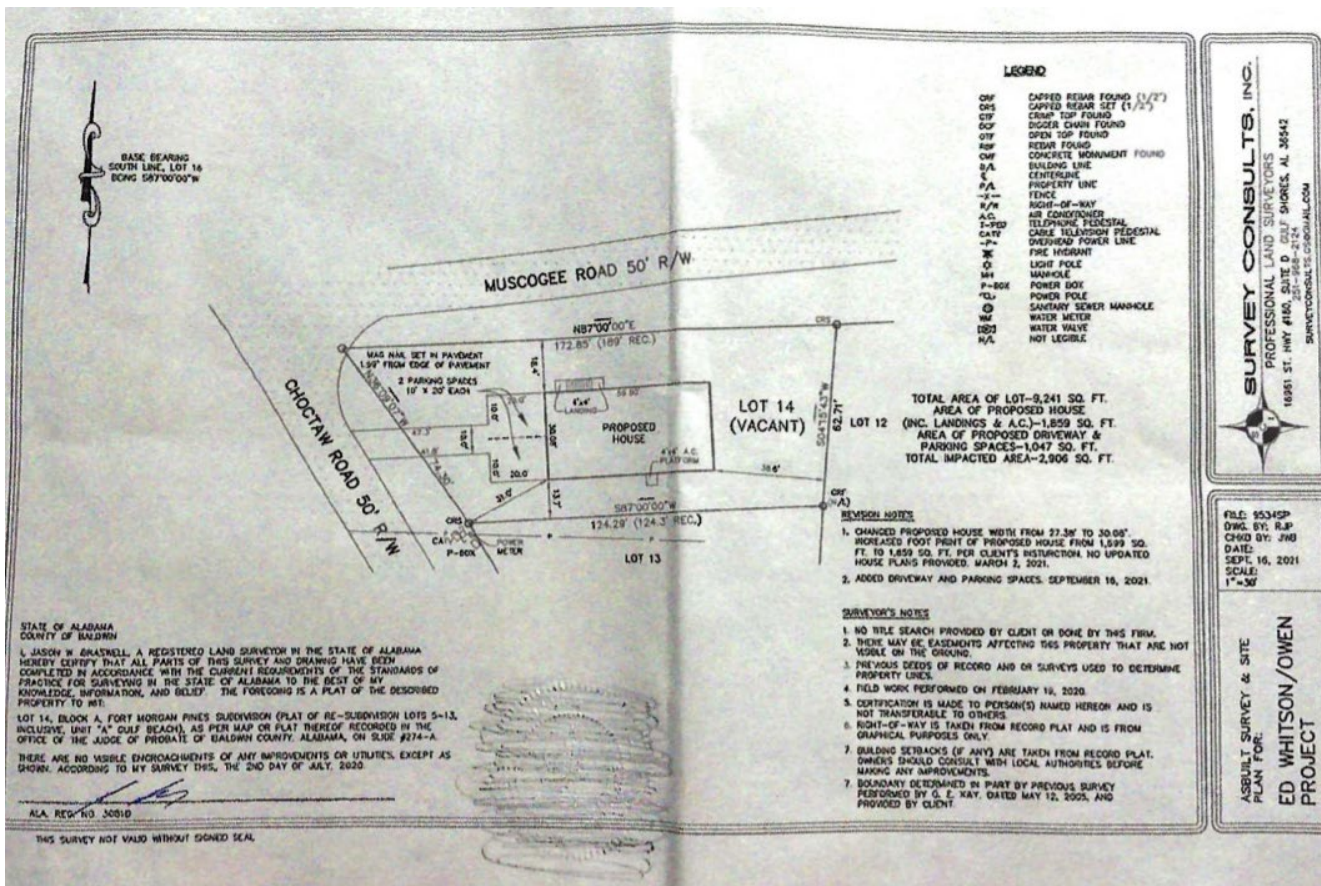
Staff feels this is a reasonable request and unless information otherwise is revealed at the public hearing recommends Case ZVA21-000002 be **APPROVED**.

*\*On Variance applications, the Board of Adjustment makes the final decision*

### Variance Request

As stated above the applicant is requesting approval of a variance from the jurisdictional wetlands setback requirements to allow for construction of a modular home.

## Proposed Site Plan





## Section 10.4 Wetland Protection Overlay District

**10.4.1 Purpose.** The wetlands within Baldwin County, Alabama are indispensable and fragile natural resources with significant development constraints due to flooding, erosion and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, wise use of forested wetlands is essential to the economic well-being of Baldwin County. A considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare. It is therefore necessary for Baldwin County to ensure maximum protection for wetlands by discouraging development activities that may adversely affect wetlands.

The purpose of the wetland protection overlay district is to promote wetland protection, while taking into account varying ecological, economic development, recreational and aesthetic values and to protect wetlands from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge and wildlife habitat.

**10.4.2 Area of application.** The wetland protection overlay district applies to wetlands under the planning and zoning jurisdiction of Baldwin County. The Generalized Wetland Map adopted as part of these zoning ordinances shows the general location of wetlands and should be consulted by persons contemplating activities in or near wetlands. The Generalized Wetland Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of these zoning ordinances. The Generalized Wetland Map shall be kept on file in the offices of the Planning & Zoning Department.

**10.4.3 Wetland protection district boundaries.** The Generalized Wetland Map is a general reference document and wetland boundaries indicated on the map are approximations. The Generalized Wetland Map is to alert developers/landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer/landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 permit will be required prior to any activity. The Generalized Wetland Map does not represent the boundaries of jurisdictional wetlands within the jurisdiction of Baldwin County and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this section does not relieve the landowner from federal or state permitting requirements.

**10.4.4 Permit requirements.** A U.S. Army Corps of Engineers wetlands jurisdictional determination if the proposed planned development contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map as defined herein, or through a site visit by County Staff. The setback for development from a wetland must be a minimum of 30 feet.

If the area proposed for development is located in or within the wetland protection district boundary, as determined from the Generalized Wetland Map, a U.S. Army Corps of Engineers jurisdictional determination shall be required prior to the issuance of a Land Use Certificate. If the Corps determines that wetlands are present on the proposed development site and that a Section 404 Permit or Letter of Permission is required, a Land Use Certificate will be issued only following issuance of the Section 404 Permit or Letter of Permission. Any application for subdivision approval on property which contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map defined herein through a site visit by County Staff, will have to obtain a U.S. Army Corps of Engineers wetlands jurisdictional determination. If the Corps determines that wetlands



are present and that a Section 404 Permit or Letter of Permission is required, development may not proceed until the Section 404 Permit or Letter of Permission is issued.

**10.4.5 Subdivisions in the Wetland Protection Overlay District.** Where a parcel of land proposed to be subdivided contains an area of wetlands delineated as jurisdictional by the Army Corps of Engineers, said wetlands shall be subject to Section 404(b)(1) guidelines concerning fill material disposal into wetlands. Lots may be platted where sufficient upland areas exist to provide a building site for the principal structure and necessary ancillary facilities. Fill may be used where necessary to provide access to lots where approval for such fill has been received from the Army Corps of Engineers and other appropriate governmental agencies.

Wetlands delineated as jurisdictional by the Army Corps of Engineers and not permitted for fill shall be set aside as common area or shall be contained within an easement dedicated to protect the wetland. Said common area or maintenance easement shall extend a minimum of 30-feet beyond the limits of the wetland. Maintenance responsibility shall be vested in the trustees of the subdivision, by virtue of the trust indenture.

**Area and Dimensional Requirements for the RSF-1 Zoning Designation**

Maximum Height of Structure in Feet	35-Feet
Maximum Height in Habitable Stories	2 1/2
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	15,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

**2.3.25.3 Local Provisions for Planning District 25**

- (a) Multiple family buildings in the “RMF-6, Multiple Family” district may be erected to a maximum height or seven (7) habitable stories. The required side yards shall be increased by 4-feet for each additional story over two (2) habitable stories. The maximum impervious surface ratio shall not exceed .50.
- (b) No PRD development is allowed to exceed maximum height requirements by more than 10-feet or 1 story.
- (c) Off-street Parking.

As a supplement to Section 15.2, Parking Schedule, the following off-street parking requirements shall be applicable to single family dwellings and two-family dwellings:

- 1. Up to Four (4) Bedrooms: Two (2) spaces per dwelling unit.
- 2. Up to Six (6) Bedrooms: Three (3) spaces per dwelling unit.
- 3. Seven (7) Bedrooms and more: Four (4) spaces per dwelling unit, plus one (1) additional space per dwelling unit for every bedroom over eight (8).
- (d) HDR, High Density Residential District, shall not be available in Planning District 25.
- (e) The maximum height of single family and two-family structures shall be limited to two (2) habitable stories.

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

**1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.**

The subject property is located on the southeast intersection of Muscogee Road and Choctaw Road. The parcel is currently vacant and surrounded by adjacent residential properties. The lot consists of approximately 9,241 square feet which is considerably smaller than the RSF-1 minimum lot area requirement of 30,000 square feet. Therefore, staff feels the property could be considered exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

**2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.**

Per the wetland delineation submitted there are approximately 1,556 square feet of mapped wetlands on the approximately .22-acre parcel located to the north and in the center of the subject property. Therefore, staff perceives there is an exceptional topographic condition or other extraordinary situation or condition which require a variance.

**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.**

Per the site plan submitted, the applicant is proposing to construct the 1,859 square foot single-family dwelling with 1,047 square feet of driveway and parking area. The proposed total impact is 2,906 square feet on the 9,241 square foot lot. The property is zoned for residential use. The granting of the application will allow the applicant to build a single-family dwelling. Therefore, staff believes the granting of a variance is necessary for the preservation of a property right.

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

Staff anticipates no major impacts, therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

**5.) Other matters which may be appropriate.**

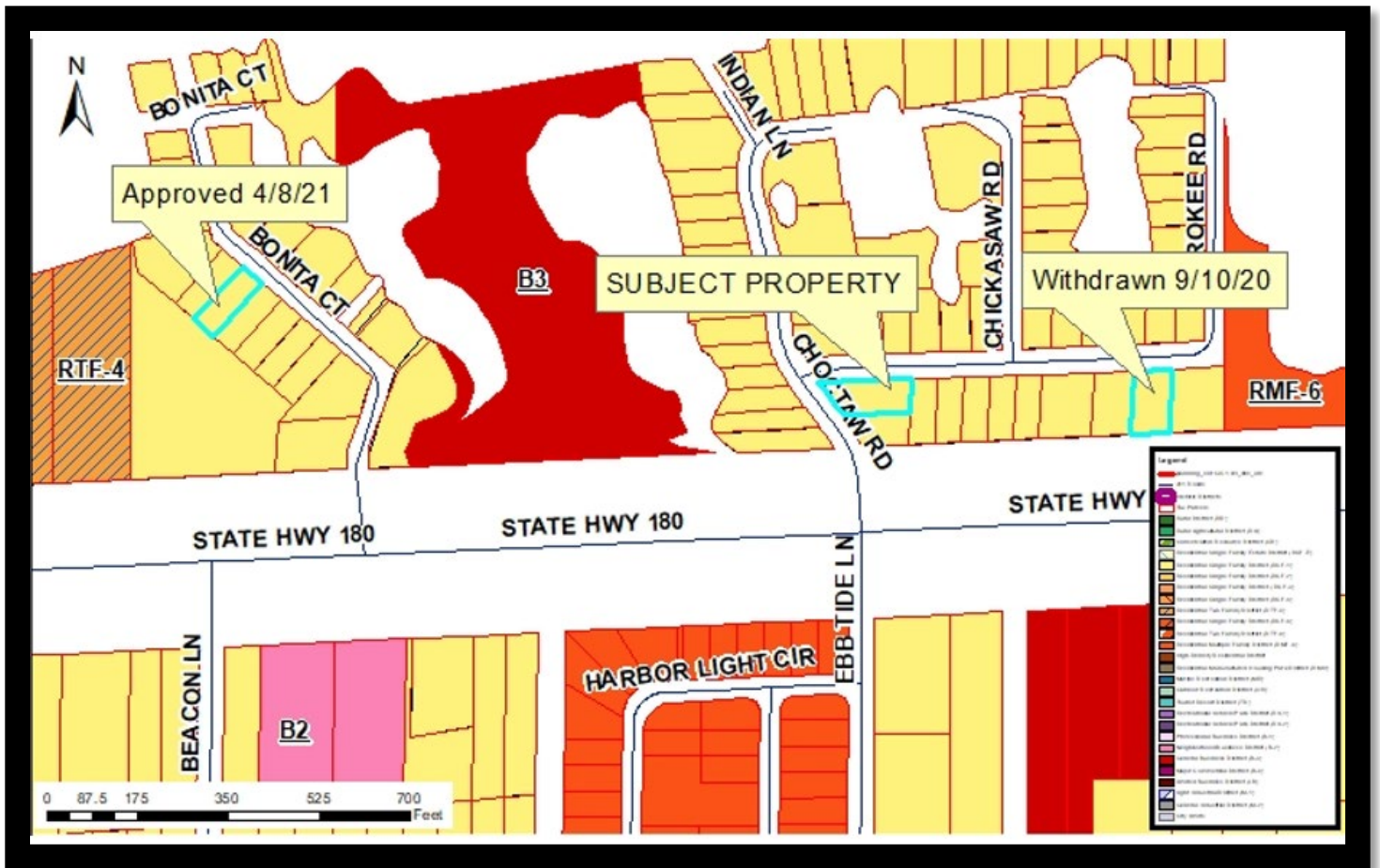
The USACOE has granted a Nationwide Permit, File Number SAM-2021-00715-LML to fill 1,132 square feet (0.026 acre) of herbaceous wetlands to construct a single-family dwelling and driveway.

Per Bill Lynn with USFWS an Incidental Take Permit is not required for this project.

Per the applicant, there is no active Property Owners Association.



The map below displays the locations of this application along with the two wetland variance applications in this area over the past year. V-210005 located at 647 Bonita Court was approved on April 8, 2021. V-200027 located at 2586 Muscogee Road was submitted August 20,2020 but was withdrawn prior to the September 10, 2020 meeting.



### Staff Comments and Recommendation

Staff feels this is a reasonable request and unless information otherwise is revealed at the public hearing recommends Case ZVA21-000002 be APPROVED.

### GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.







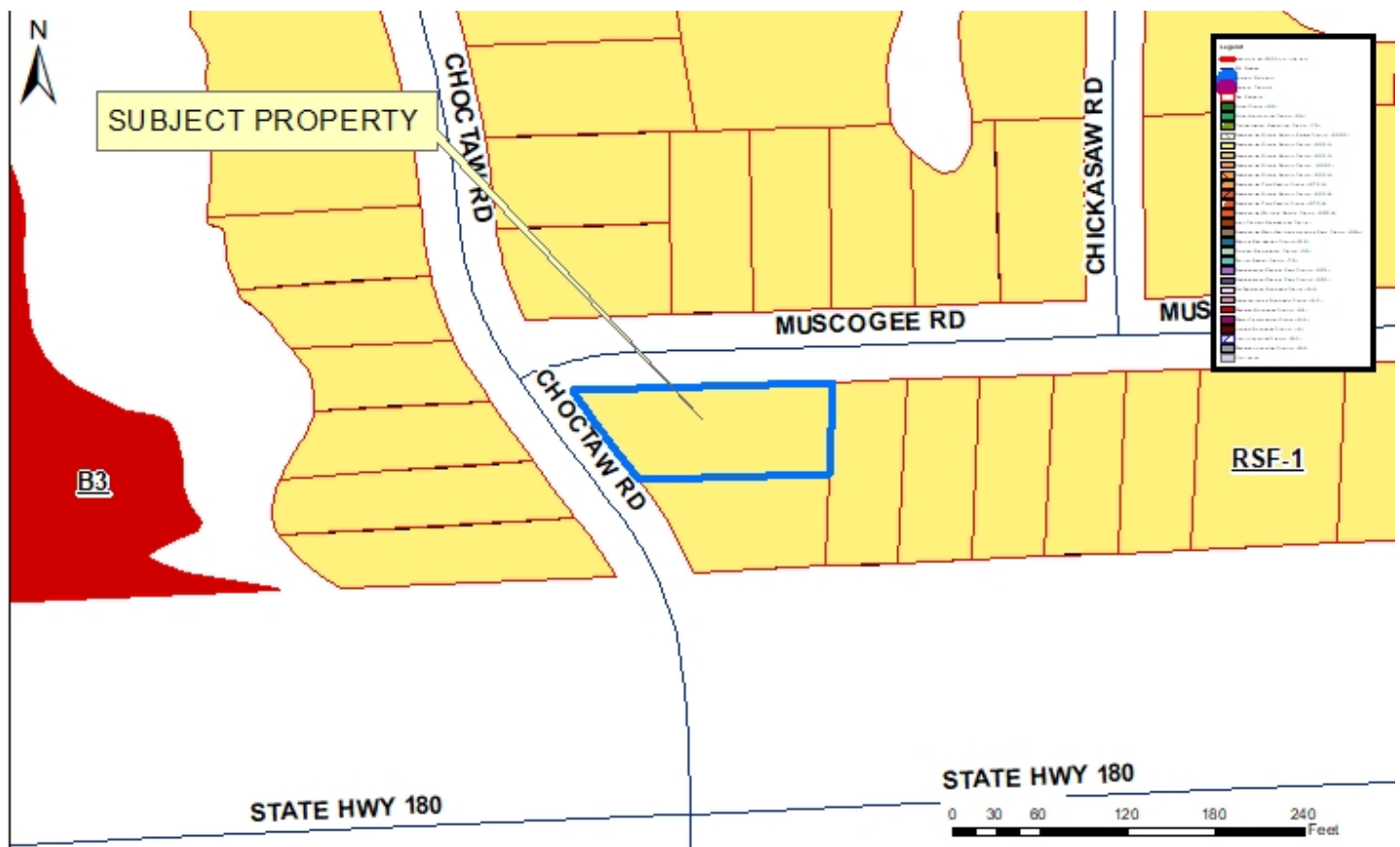




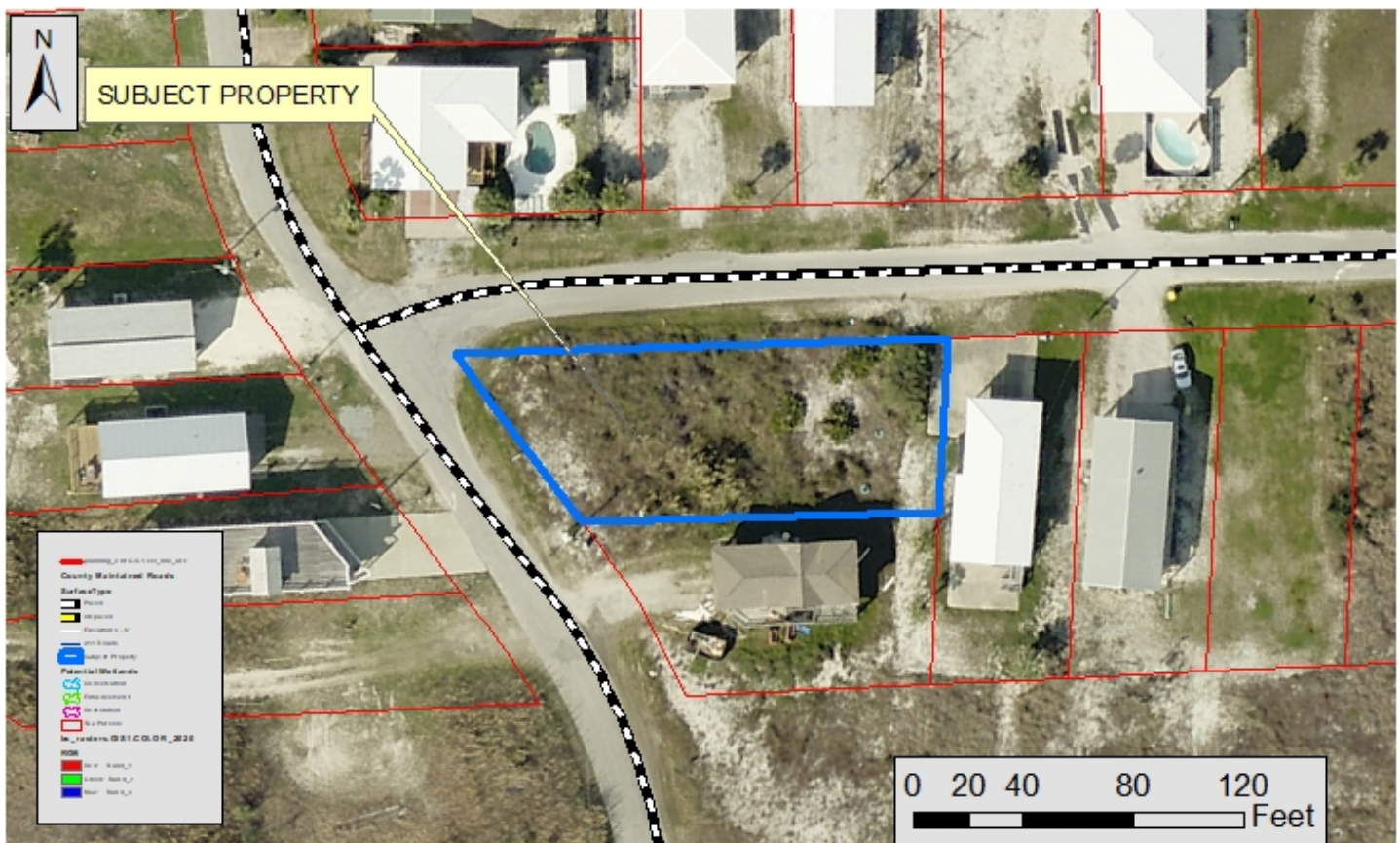




## Locator Map



## Site Map





DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT  
P.O. BOX 2288  
MOBILE, AL 36628-0001

September 22, 2021

South Alabama Branch  
Regulatory Division

SUBJECT: Department of the Army Nationwide Permit, File Number SAM-2021-00715-LML,  
Whitson Builders, Gulf Shores, Baldwin County, Alabama

Whitson Builders  
Attention: Mr. Ed Whitson  
Email Address: [ed@whitsonbuilders.com](mailto:ed@whitsonbuilders.com)  
6900 Lakeshore Drive  
Gulf Shores, Alabama 36542

Dear Mr. Whitson:

This letter is in response to your request for verification of Department of the Army Nationwide Permit (NWP) authorization to fill wetlands associated with a single-family dwelling. The project has been assigned file number SAM-2021-00715-LML which should be referred to in any future correspondence with this office concerning this project. The project is located at 2400 Choctaw Road; within Section 2, Township 9 South, Range 1 East; near Latitude 30.232561° and Longitude -87.977465°; in Gulf Shores, Baldwin County, Alabama.

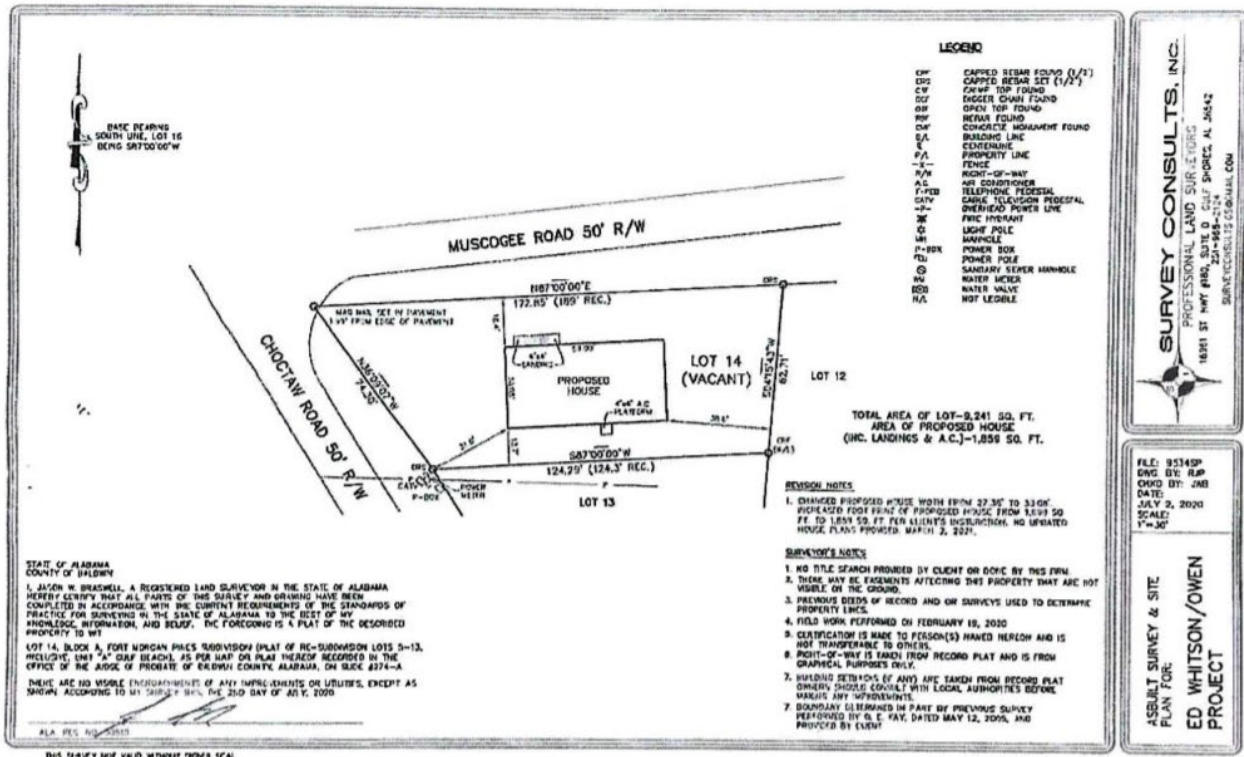
Department of the Army (DA) permit authorization is necessary because your project involves work and the temporary placement of fill in waters of the United States, including wetlands, under our regulatory jurisdiction. The project activities include the following:

The project activities include the placement of 150 cubic yards of commercially obtained fill material within 1,132 square feet (0.026 acre) of herbaceous wetlands in order to construct a single-family dwelling and driveway.

Based upon the information and plans you provided, we hereby verify the work described above, which would be performed in accordance with the attached drawings, is authorized by NWP 18, *Minor Discharges*, in accordance with 33 CFR Part 330 of our regulations. This NWP and associated Regional and General Conditions are attached for your review and compliance.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2022. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date the relevant NWP is modified or revoked, you will





SAM-2021-00715-LML

SECTION A - A (nts)

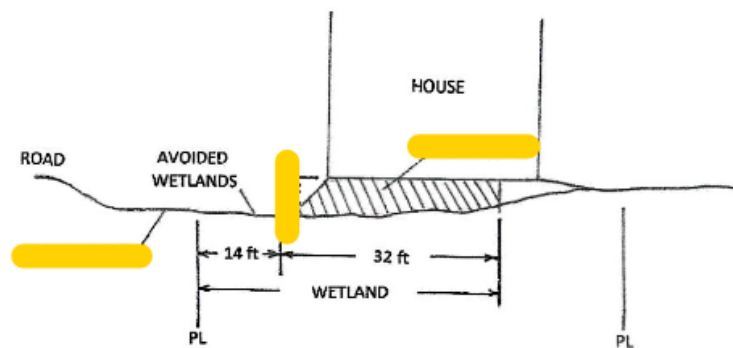


Figure 5. Cross Section of Proposed Wetland Fill

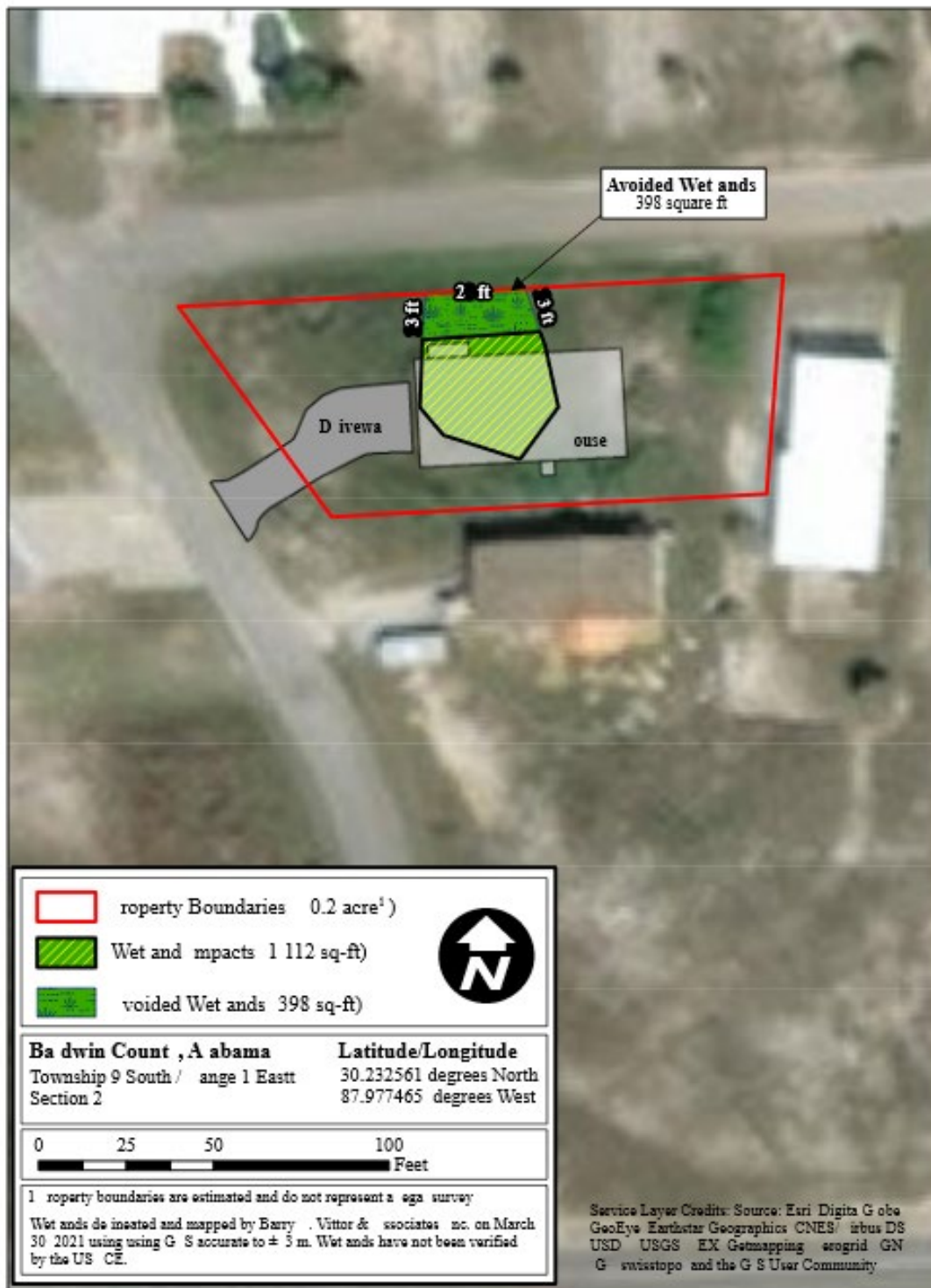


Figure 4 Proposed Wet and Impacts



Good Morning Bill,

I have two variance applications on Fort Morgan that I wanted to check with you on.

1. Cox Pools has applied for a water front setback variance on 685 Bonita Court (PPIN # 1017 owner David Wahlbom) to construct a pool.
2. Ed Whitson has applied for a wetland variance on 2400 Choctaw Rd. (PPIN # 11244 owner William & Cindy Owen) to construct a modular home.

Do they need an ITP for these?

Thank you!

---

Paula,

Neither of these will require a permit from the Service.

Thanks,

Bill

\*\*\*\*\*  
Bill Lynn  
Certified Wildlife Biologist  
Alabama ES Field Office  
1208B Main Street  
Daphne, AL 36526  
251-331-2920 Cell  
251-441-5868 Office  
251-441-6222 Fax  
<http://www.fws.gov/daphne/>  
\*\*\*\*\*

## No neighborhood association

ME Meauxfoto <meauxfoto@aol.com>  
Sat, 02 Oct 2021 5:58:19 PM -0500  
To "Ed Whitson" <ed@whitsonbuilders.com>

Tags   
Security  TLS [Learn more](#)

Mr. Whitson,

In regards to the inquiry of the existence of an active neighborhood association, board or committee - none exist in our neighborhood. It is free of restrictions.

//Signed//  
William Mark Owen  
2400 Choctaw Rd  
Gulf Shores, AL 36542

[Sent from the all new AOL app for iOS](#)

## **FT MORGAN**

### **PLANNING & ZONING ADVISORY COMMITTEE**

Meeting Minutes – Oct 25, 2021

New Business:

- (1) Re: Case No. ZVA21-000002: Owen Property. General Location: Property is located at 2400 Choctaw Road, in Planning District 25.**

**Requested Action and Purpose:** The applicant is requesting a variance from the wetland setback requirement to allow for the construction of a modular home.

**Discussion:** The committee noted that the proposed modular home is sited so it directly impacts a potential wetland. (A formal wetland delineation was not provided). The committee recommends consideration be given to relocate the home east or west to minimize wetland impact. A phone call with the applicant indicated another survey was scheduled for next week. The committee recommends the Board of Adjustment base its decision on the results of that new survey --- if it is performed.





# Baldwin County Planning & Zoning Department

## Board of Adjustment Number 2

### Board of Adjustment Staff Report

Case No. ZVA21-000003

**Fort Morgan Volunteer Fire Department Property**  
**Variance from the Wetlands Setback Requirements to allow for a New Fire Station**  
**November 4, 2021**

### Subject Property Information

**Planning District:** 25  
**General Location:** South side of State Highway 180  
**Physical Address:** 5224 State Highway 180  
**PID:** 05-51-04-19-0-001-001.007  
**Zoning:** RSF-1, Residential Single Family  
**Acreage:** 0.81, more or less  
**Applicant:** Michael Ludvigsen on behalf of  
Fort Morgan Volunteer Fire Department  
13113 State Highway 180  
Gulf Shores, AL 36542  
**Owner:** Fort Morgan Volunteer Fire Department  
12105 State Highway 180  
**Lead Staff:** Linda Lee, Planner  
**Attachments:** *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Vacant	RTF-4, Residential Two-Family
South	Residential	RSF-1, Residential Single-Family
East	Vacant	RSF-1, Residential Single-Family
West	Residential	RSF-1, Residential Single-Family

### Summary and Recommendation

The applicant is requesting a variance from the wetlands setback requirement to allow for the construction of a new fire station. The applicant has received a permit from the US Army Corps of Engineers to fill 2,748 square feet of emergent and scrub-shrub wetlands. Staff recommends APPROVAL of the variance request.

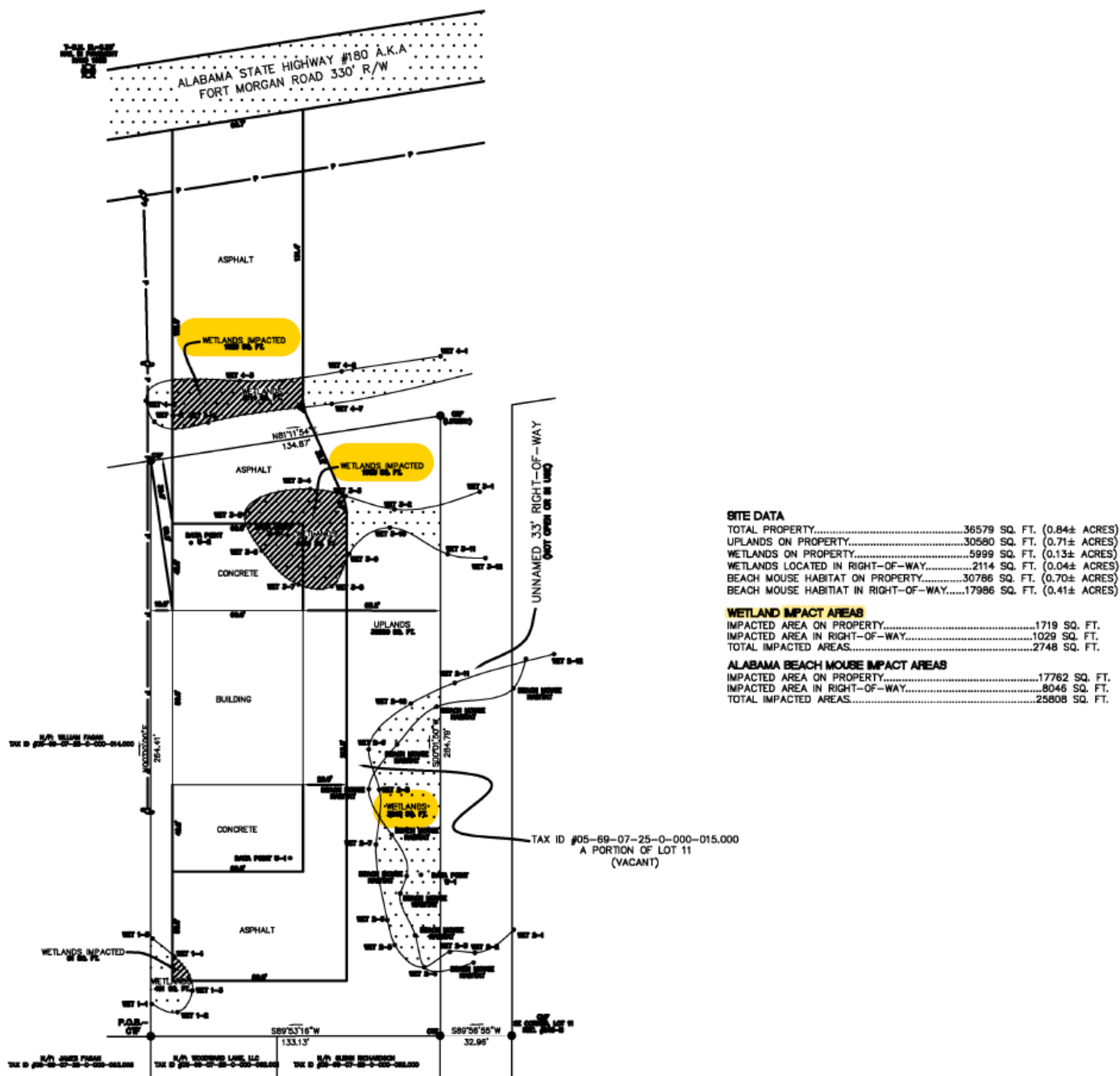
### Variance Request

The applicant is requesting a variance from the wetlands setback requirement to allow for the construction of a new fire station.

The proposed fire station meets the zoning front, side and rear setback requirements. The Baldwin County Zoning Ordinance requires a 30-foot setback for development from a wetland. The definition of 'development' is as follows:

**Development.** The construction, reconstruction, repair, demolition, conversion, structural alteration, relocation, removal, or enlargement of any building or structure; any extension of utilities; any construction of streets; any construction of drainage structures; any mine, excavation, **land fill, or land disturbance**; and/or any change in use, or alteration or extension of the use, of land.

### Proposed Site Plan



### Additional Information

The following sections from the *Baldwin County Zoning Ordinance* are relevant to this application:

#### Section 10.4 Wetland Protection Overlay District

**10.4.1 Purpose.** The wetlands within Baldwin County, Alabama are indispensable and fragile natural resources with significant development constraints due to flooding, erosion



and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, wise use of forested wetlands is essential to the economic well-being of Baldwin County. A considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare. It is therefore necessary for Baldwin County to ensure maximum protection for wetlands by discouraging development activities that may adversely affect wetlands.

The purpose of the wetland protection overlay district is to promote wetland protection, while taking into account varying ecological, economic development, recreational and aesthetic values and to protect wetlands from alterations that will significantly affect or reduce their primary functions for water quality, floodplain and erosion control, groundwater recharge and wildlife habitat.

10.4.2 *Area of application.* The wetland protection overlay district applies to wetlands under the planning and zoning jurisdiction of Baldwin County. The Generalized Wetland Map adopted as part of these zoning ordinances shows the general location of wetlands and should be consulted by persons contemplating activities in or near wetlands. The Generalized Wetland Map, together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of these zoning ordinances. The Generalized Wetland Map shall be kept on file in the offices of the Planning & Zoning Department.

10.4.3 *Wetland protection district boundaries.* The Generalized Wetland Map is a general reference document and wetland boundaries indicated on the map are approximations. The Generalized Wetland Map is to alert developers/landowners if they are within proximity to a wetland, which means that there is a high likelihood of the presence of a jurisdictional wetland and a need for the developer/landowner to seek U.S. Army Corps of Engineers guidance as to whether a Section 404 permit will be required prior to any activity. The Generalized Wetland Map does not represent the boundaries of jurisdictional wetlands within the jurisdiction of Baldwin County and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this section does not relieve the landowner from federal or state permitting requirements.

10.4.4 *Permit requirements.* A U.S. Army Corps of Engineers wetlands jurisdictional determination if the proposed planned development contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map as defined herein, or through a site visit by County Staff. **The setback for development from a wetland must be a minimum of 30 feet.**

If the area proposed for development is located in or within the wetland protection district boundary, as determined from the Generalized Wetland Map, a U.S. Army Corps of Engineers jurisdictional determination shall be required prior to the issuance of a Land Use Certificate. If the Corps determines that wetlands are present on the proposed development site and that a Section 404 Permit or Letter of Permission is required, a Land Use Certificate will be issued only following issuance of the Section 404 Permit or Letter of Permission. Any application for subdivision approval on property which

contains wetlands or if the Zoning Administrator or his/her designee determines potential wetlands from the Generalized Wetland map defined herein through a site visit by County Staff, will have to obtain a U.S. Army Corps of Engineers wetlands jurisdictional determination. If the Corps determines that wetlands are present and that a Section 404 Permit or Letter of Permission is required, development may not proceed until the Section 404 Permit or Letter of Permission is issued.

- 10.4.5 *Subdivisions in the Wetland Protection Overlay District.* Where a parcel of land proposed to be subdivided contains an area of wetlands delineated as jurisdictional by the Army Corps of Engineers, said wetlands shall be subject to Section 404(b)(1) guidelines concerning fill material disposal into wetlands. Lots may be platted where sufficient upland areas exist to provide a building site for the principal structure and necessary ancillary facilities. Fill may be used where necessary to provide access to lots where approval for such fill has been received from the Army Corps of Engineers and other appropriate governmental agencies.

Wetlands delineated as jurisdictional by the Army Corps of Engineers and not permitted for fill shall be set aside as common area or shall be contained within an easement dedicated to protect the wetland. Said common area or maintenance easement shall extend a minimum of 30-feet beyond the limits of the wetland. Maintenance responsibility shall be vested in the trustees of the subdivision, by virtue of the trust indenture.

#### **Area and Dimensional Requirements for the RSF-1 Zoning Designation**

Maximum Height of Structure in Feet	35-Feet
Maximum Height in Habitable Stories	2 1/2
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35

#### **Staff Analysis and Findings**

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

##### **1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.**

The subject property is described as irregular lot 11 of Government Subdivision which was recorded in 1955 prior to the enactment of zoning in 1992. The current dimensions of the lot are approximately 130'x264'. The lot meets the minimum lot width and area for property zoned RSF-1. The lot meets the minimum lot size requirements for property zoned RSF-1.

##### **2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.**

Per the survey submitted by the applicant the property contains wetlands. Therefore, staff believes the property does meet the extraordinary situation or condition of a specific piece of property standard.



**3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.**

The property is zoned for residential use and is currently undeveloped. The applicant is proposing to construct a new fire station. Therefore, staff feels the granting of the application is necessary to preserve a property right.

**4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.**

Staff does not anticipate any adverse impacts, therefore staff does not believe the granting of this application will impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

**5.) Other matters which may be appropriate.**

Per the property owner, there isn't an active Property Owners Association.

Fort Morgan Advisory Committee recommended approval of the variance request.

**(2) Re: Case No. ZVA21-000003: Fort Morgan Volunteer Fire Department Property**

**Requested Action and Purpose: The applicant is requesting a variance from the wetland setback requirement to allow for the construction of a new fire station.**

**Discussion: Based on the conditional use approval granted by the Planning Commission, the committee recommends approval of the wetlands variance.**

The Baldwin County Planning Commission granted Conditional Use approval on October 7, 2021 with the condition a variance from the wetland setback requirement is granted by the board.

BALDWIN COUNTY PLANNING & ZONING COMMISSION BALDWIN COUNTY  
PLANNING & ZONING DEPARTMENT

**Robertsdale Office**  
22251 Palmer Street  
Robertsdale, AL 36567  
Phone: (251) 580-1655  
planning@baldwincountyal.gov

**Foley Office**  
201 East Section Avenue  
Foley, AL 36535  
Phone: (251) 972-8523  
planning@baldwincountyal.gov

**NOTICE OF ACTION TAKEN**

---

**MEETING DATE:** October 7, 2021

**CASE NUMBER:** P-21009

**PARCEL ID #:** 05-69-07-25-0-000-015.000

**PLANNING DISTRICT:** District 25

**PROPERTY LOCATION:** 0 St Hwy 180

**APPLICANT:** Mark Frohlich  
4715 Millhouse Road  
Gulf Shores, AL 36542

**OWNER:** Fort Morgan Volunteer Fire Department

**REQUEST:** Conditional Use to allow Construction of a  
volunteer fire department station. on .81 acres.

**ACTION TAKEN:** Approved with Conditions:

- 1.) Approval shall be for this location only.
- 2.) A variance from the wetland setback requirement is granted by the Board of Adjustment.
- 3.) A Baldwin County Site Plan Approval and building permit shall be obtained no later than six (6) months from the date of Conditional Use approval. The Planning Commission may grant additional time if deemed necessary.
- 4.) If signage is proposed, a Sign Permit application, demonstrating compliance with Article 16 of the zoning ordinance, shall be

submitted to, and approved by the Planning and Zoning Department.

5.) Storm water facilities are to be installed and inspected prior to the start of construction.

6.) Any major changes and/or additions shall result in further review and approval by the Planning Commission.

  
\_\_\_\_\_  
Zoning Administrator or designee



## Staff Comments and Recommendation

As stated previously, the applicant is requesting a variance from the wetlands setback requirement to allow for the construction of a new fire station. The applicant has received a permit from the US Army Corps of Engineers to fill 2,748 square feet of emergent and scrub-shrub wetlands. Staff recommends **APPROVAL** of the variance request.

*\* A majority vote of the board members will be necessary to approve this request.*

### **GENERAL NOTES {By-laws}**

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal there from to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted, and the conditions imposed by the Zoning Ordinance are adhered to.

## Property Images

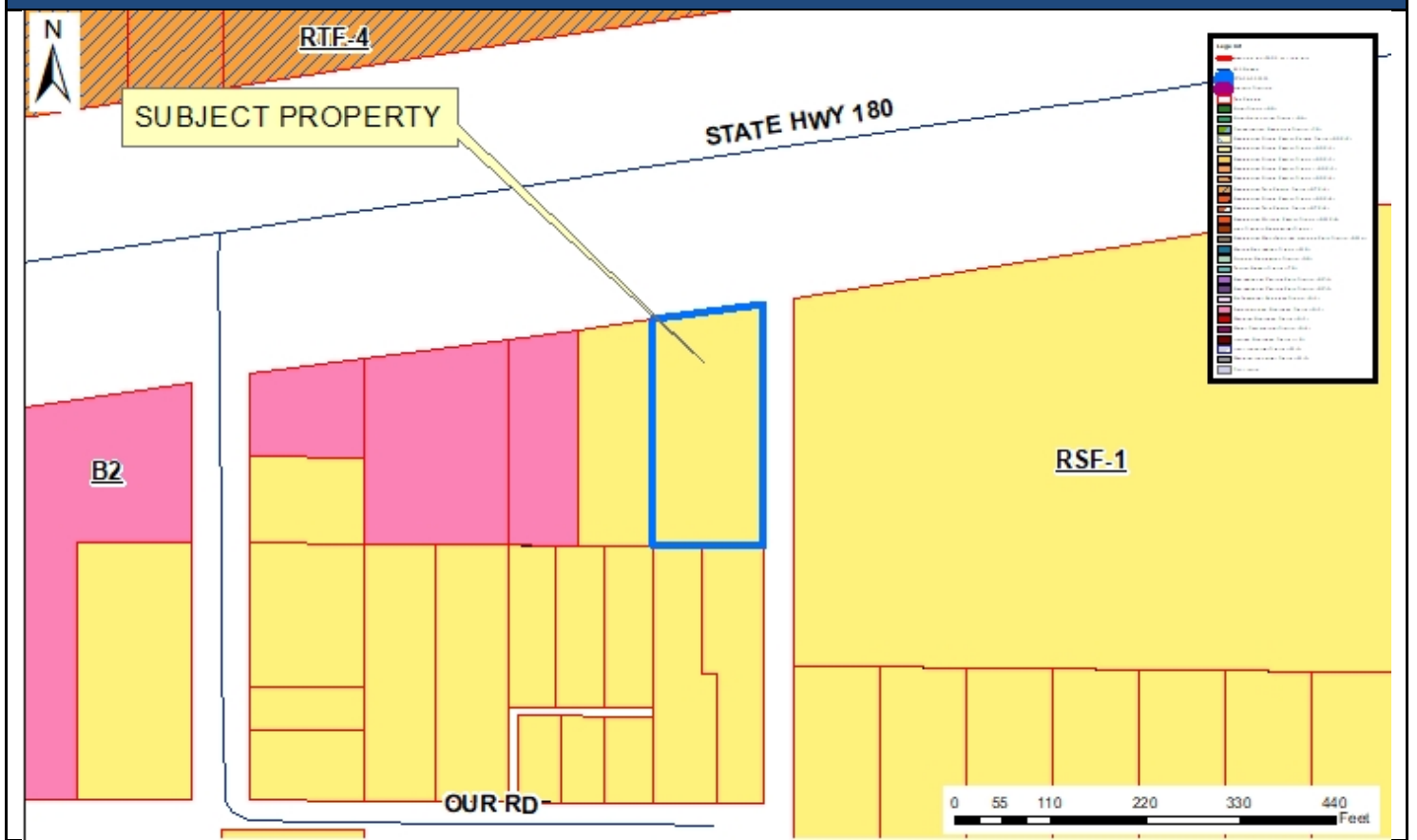




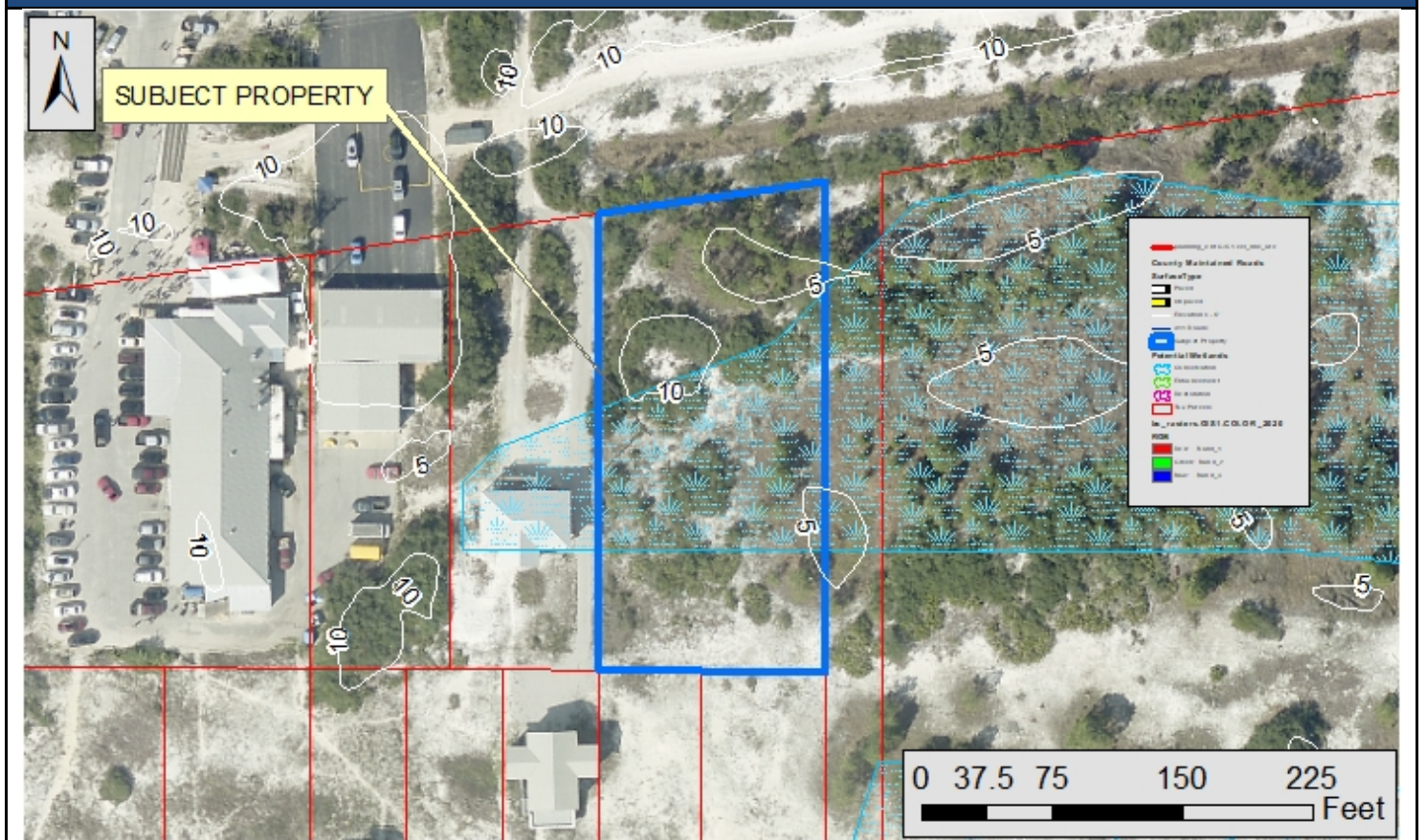




# Locator Map



# Site Map – 2020 Aerial Photography





# Baldwin County Planning & Zoning Department

## Board of Adjustment Number 2

### Board of Adjustment Staff Report

Case No. SE-21010

Weaver Property

Approve Special Exception for Auto Repair Business and Dealer License for Vehicle Purchase

November 4, 2021

### Subject Property Information

**Planning District:** 22  
**General Location:** South side of Kichler Circle North west of County Road 83  
**Physical Address:** 24488 Kichler Circle North  
**PID:** 05-53-04-18-0-000-011.001  
**Zoning:** RR, Rural District  
**Acreage:** 4.70 acres ±  
**Request:** Approval of Auto Repair Business and Dealer License for Vehicle Purchase  
**Applicant:** Fontavian & Christina Weaver  
24488 Kichler Circle North  
Elberta, AL 36530  
**Owner:** Christina and Fontavian Weaver  
**Lead Staff:** Linda Lee, Planner  
**Attachments:** Within Report

	Adjacent Land Use	Adjacent Zoning
North	Residential	RA, Rural Agricultural District
South	Agricultural	RA, Rural Agricultural District
East	Agricultural	RA, Rural Agricultural District
West	Residential	RA, Rural Agricultural District

### Summary and Discussion

The applicant is requesting special exception approval to allow for an auto repair business and dealer license for vehicle purchase. Auto repair and auto sales are permitted in the RR zoning designation with special exception approval from the Board of Adjustment.

### Current Zoning Requirements

#### Section 3.1 RR, Rural District

3.1.1 *Generally.* This zoning district is provided to accommodate the rural areas of Baldwin County. Rural District ordinances are designed to protect the rural character of the area.

3.1.2 *Permitted uses.* Except as provided by Section 2.3: *Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses shall be permitted:



- (a) The following general industrial uses: extraction or removal of natural resources on or under land.
- (b) The following transportation, communication, and utility uses: water well (public or private).
- (c) Marine recreation uses.
- (d) Outdoor recreation uses.
- (e) The following general commercial uses: animal clinic and/or kennels; farm implement sales; farmer's market/truck crops; nursery; landscape sales.
- (f) Local commercial uses.
- (g) Professional service and office uses.
- (h) The following institutional uses: church or similar religious facility; child care center; child care institution; day care home; fire station; library; post office; school (public or private).
- (i) Agricultural uses.
- (j) Single family dwellings including manufactured housing and mobile homes.
- (k) Accessory structures and uses.

3.1.3 *Special exceptions.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed as special exceptions:

- (a) Light industrial uses.
- (b) General commercial uses not permitted by right, except race track.
- (c) Institutional uses not permitted by right, except correctional, detention, or penal institution and sanitarium.
- (d) Boarding house, rooming house, lodging house, or dormitory.
- (e) Fraternity or sorority house.

3.1.4 *Conditional use.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed as conditional uses:

Transportation, communication, and utility uses not permitted by right.

3.1.5 *Area and dimensional ordinances.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, *Section 12.4: Height Modifications*, *Section 12.5: Yard Requirements*, *Section 12.6: Coastal Areas*, *Section 12.8: Highway Construction Setbacks*, *Section 18.6 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35
Minimum Front Yard	30-feet
Minimum Rear Yard	30-feet
Minimum Side Yards	10-feet
Minimum Lot Area	40,000 Square Feet
Minimum Lot Width at Building Line	120-feet
Minimum Lot Width at Street Line	120-feet

3.1.6 *Area and dimensional modifications.* Within the RR district, area and dimensional requirements may be reduced, as set forth below, where property is divided among the following legally related family members: spouse, children, siblings, parents, grandparents, grandchildren, or step-related individuals of the same status.

Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	20,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	80-Feet



## Site Plan



### Additional Information

#### Section 17.2 Buffers of Unlike Land Uses and Zoning Designations

17.2.1 *Purpose and intent.* Where unlike land uses or zoning designations occur, a buffer shall be required along the entire length of all such common boundaries. Said buffer shall be of the width specified below and shall be planted with canopy trees, understory trees and shrubs of sufficient density and of sufficient height (but in no case less than 8-feet high at the time of planting for canopy trees and 4-feet high at the time of

planting for understory trees) to afford adequate sight, sound and debris protection. All screen planting shall be maintained in a clean and healthy condition.

**17.2.2 Buffer Requirements.** Landscaped buffers shall be located at the perimeter of the building site for any given use, and shall not be located in any portion of a public right-of-way. The required buffer widths are listed below. Additional information may be found at Appendix B:

(a) Multiple Family uses (RMF-6) when adjacent to a Rural District (RR, RA and CR), Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

(b) Multiple Family uses (RMF-6) when adjacent to a Two-Family District (RTF-4 and RTF-6) or Professional Business District (B-1) shall require a minimum buffer of **10-feet**.

(c) Institutional uses, Professional Business uses (B-1), Neighborhood Business uses (B-2), General Business uses (B-3), Major Commercial uses (B-4) and Marine Recreation (MR) uses when adjacent to a Rural District (RR, RA and CR), Residential Single Family Estate District (RSF-E) or Single Family District (RSF-1, RSF-2, RSF-3, RSF-4 and RSF-6) shall require a minimum buffer of **25-feet**.

## Staff Analysis and Findings

**18.8.1 Authorization.** The Board of Adjustment may, under the prescribed standards and procedures contained herein, authorize the construction or initiation of any use that is expressly permitted as a special exception in a particular zoning district; however, the county reserves full authority to deny any request for a special exception, to impose conditions on the use, or to revoke approval at any time, upon finding that the permitted use will or has become unsuitable and incompatible in its location as a result of any nuisance or activity generated by the use.

**18.8.4 Standards for approval.** A special exception may be approved by the Board of Adjustment only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met:

**(a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Baldwin County Master Plan, these ordinances, or any other official plan, program, map or ordinance of Baldwin County.**

The subject property is accessible to Kirchler Circle North. Most of the surrounding land is agricultural and residential. The applicant is proposing to use an existing structure for auto repair and to have a small auto sales business. Elberta Pump Repair is located on the north side of Kichler Circle North; however, staff is uncertain as to whether or not commercial activity is performed on site. Staff believes the proposed uses would be compatible with the surrounding area. Finally, the 2013 Master Plan shows a future land use designation of Agricultural.

### Agricultural

*Agriculture, forestry and similar activities are included with this future land use category. Single family dwellings, institutional uses, recreational uses, limited commercial uses which are intended to serve a rural area and transportation, communication and utility uses are also included subject to the requirements found within the Zoning Ordinance. This category is designed to protect the essential open character of rural areas until it is timely to reclassify the land to appropriate residential, commercial or industrial categories. Zoning designations may include RR, CR, RA and RSF-E.*



**(b) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location.**

Individual auto repair shops are found throughout rural areas. Access to the property will require approval from the Baldwin County Highway Department. See Highway Department comments at the end of this staff report.

**(c) The proposed use shall not unduly decrease the value of neighboring property.**

Staff does not believe that the proposed use will have a significant negative impact on property values.

**(d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services.**

The adjacent properties are largely agricultural and residential. Staff has not received any opposition to the proposed uses.

*18.8.5 Conditions and restrictions on approval.* In approving a special exception, the Board of Adjustment may impose conditions and restrictions upon the property benefited by the special exception as may be necessary to comply with the standards set out above, to reduce or minimize any potentially injurious effect of such special exception upon the property in the neighborhood, and to carry out the general purpose and intent of the ordinances. In approving any special exception, the Board of Adjustment may specify the period of time for which such approval is valid for the commencement of the proposed special exception. The Board of Adjustment may, upon written request, grant extensions to such time allotments not exceeding 6 months each without notice or hearing. Failure to comply with any such condition or restriction imposed by the Board of Adjustment shall constitute a violation of these ordinances. Those special exceptions which the Board of Adjustment approves subject to conditions shall have specified by the Board of Adjustment the time allotted to satisfy such conditions.

#### **Staff Comments and Recommendation**

The Board of Adjustment approved the proposed RV and Boat Storage Facility at its July 15, 2021 meeting with the following conditions.

- Approval shall be for this location only.
- Facility shall be fully screened from public view by fences, walls, landscaping or a combination thereof.
- Expansion of the RV and Boat Storage Facility and/or changes to the site plan will necessitate further Special Exception review and approval.

Staff has no issues with the proposed uses and recommends that the requested special exception be **APPROVED**.

*\*A majority vote of the members will be necessary to approve this request.*

#### **GENERAL NOTES {By-laws}**

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted and the conditions imposed by the Zoning Ordinance are adhered to.













**Baldwin County Highway Department:**

**From:** Alfreda Jeffords <[Weesie.Jeffords@baldwincountyal.gov](mailto:Weesie.Jeffords@baldwincountyal.gov)>

**Sent:** Wednesday, July 21, 2021 1:51 PM

**To:** D Hart <[DHart@baldwincountyal.gov](mailto:DHart@baldwincountyal.gov)>

**Subject:** RE: Z-21028 Weaver Property

DJ,

I have the following comments for the proposed rezoning:

1. The existing connections would need to be upgraded to comply with the commercial turnout permit requirements to provide access to business usage. One entrance currently is used for residential access to the home and a second appears to be used for light agricultural purposes.
2. Any additional commercial development/building on the site would need to be reviewed for stormwater compliance.
3. Kichler Cir N traffic is low volume with a 2019 traffic count ADT of under 200 vehicles per day. The roadway functional classification is local.

Thanks,  
Weesie

Locator Map

N

HABER RD

KICHLER CIR N

KICHLER CIR W

COUNTY RD 83

SUBJECT PROPERTY

RA

RR

RSF-1

0 220 440 880 1,320 1,760 Feet

**Site Map**

**SUBJECT PROPERTY**

**Legend:**

- County Maintained Roads
- Surface type
- Wetlands
- Potential Wetlands
- Wetlands Color 2020

**Scale:** 0 120 240 480 720 Feet



**BALDWIN COUNTY PLANNING AND ZONING  
BOARD OF ADJUSTMENT NUMBER 2**

**2022  
MEETING DATES  
&  
APPLICATION DEADLINE DATES**

**Meeting time: 3:30 p.m.**

**Meeting location: Foley Satellite Courthouse Large Meeting Hall**

**All applications to be considered by the Baldwin County Board of Adjustment #2 Planning and Zoning Board of Adjustment shall be submitted no later than 4:30 p.m. on the deadline date listed below. There will be no exceptions.**

MEETING DATE	STAFF REPORTS DUE	APPLICATION DEADLINE DATE
January 13, 2022		December 22, 2021
February 10, 2022		January 20, 2022
March 10, 2022		February 16, 2022
April 14, 2022		March 22, 2022
May 12, 2022		April 21, 2022
June 9, 2022		May 18, 2022
July 14, 2022		June 22 2022
August 11, 2022		July 21, 2022
September 8, 2022		August 17, 2022
October 13, 2022		September 22, 2022
November 10, 2022		October 20, 2022
December 8, 2022		November 15 2022

*Dates may differ from original meeting dates and/or application deadline dates due to holidays and may be subject to change upon request by the Chairman of the Board.*

*U:\Zoning\Board of Adjustment - Baldwin County Board of Adjustment Number 2 (South end) Deadline and Meeting Calendar 2022*