

Minutes
Orange Beach Board of Adjustment
Wednesday, October 17, 2018 • 4:00 P.M.
Council Chambers • Orange Beach Municipal Complex

A. Call to Order

Chairman Mike Contorno called the meeting to order at 4:00 P.M.

B. Roll Call

Present: Bob Barnett, Board Member
 Tim Blackwell, Board Member
 Tem Blalock, Board Member - Vice-Chairman
 Cecil Young, Board Member
 Pete Peterson, Board Member - Supernumerary
 Linda Bradley, Board Member - Supernumerary
 John Lawler, Attorney
 Kit Alexander, Community Development - Director
 Griffin Powell, Community Development - Planner II
 Paulette Taylor, Community Development - Planner I
 Lannie Smith, Community Development - Building Official
 Mindy Smith, Community Development - Office Manager

Absent: Mike Contorno, Board Member - Chairman

C. APPROVAL OF MINUTES

1. Approval of minutes from the Regular Meeting on July 18, 2018.
Board Member Robert Barnett advised of a correction needed on the second page in the fourth paragraph. His name was listed incorrectly as Vice-Chairman.
Motion made (Barnett/Blalock) to approve the minutes with the correction. Vote revealed: Barnett, yes; Blackwell, yes; Blalock, yes; Young, yes; Peterson, yes; Bradley, yes. **Approved (6-0).**

D. VARIANCES

1. Case No. 1001-V-18, 5508 Pensacola Avenue

Gundy Britt Roberts requests approval of a variance to Section 5.12, Nonconforming Uses and Structures, to extend or intensify a nonconforming structure (pole barn) by enclosing the structure and adding a storage loft and roll-up front door for storage and security. The structure does not comply with current side setback, rear setback, and maximum coverage requirements for accessory structures. The property is located at 5508 PENSACOLA AVENUE in the RS-2 (Single-Family Residential) zoning district.

Gundy Britt Roberts, the owner of 5508 Pensacola Avenue, presented the variance request to the Board. He advised he was previously approved and received a permit; however, he was unable to complete the work at that time due

to health reasons. He presented a fax from June 21, 2002 from the Orange Beach Building Department requesting a response from him. He read his replies to the request. He stated the pilings would be a minimum of three feet in the ground with metal spikes in order to assist the bonding of the concrete to the posts using three eighty-pound bags of concrete. Wall framing will be between the treated six-by-six posts using two-by-fours on sixteen-inch centers with half-inch OSB. Due to the experience of Hurricane Ivan, Mr. Roberts has now used treated plywood covered in hardy-plank instead of OSB. The wall will start six inches above the concrete floor to allow ventilation and to allow entry and exit of flood waters. Mr. Roberts asked for reinstatement of his original permit so he can complete the project.

Kit Alexander, Community Development Director, advised that for the structure built back in 2002, there is no record of any final inspection performed. The approval was for the structure to be five feet from the side property line; however, it is currently only three feet from the side property line. If a final inspection had been performed when it was built, a variance for the two-foot encroachment into the five-foot setback would have been needed at that time.

Mrs. Alexander advised that the structure cannot be fully enclosed because it lies below street level. According to the city's building code, structures must be at least one foot above the street level. Therefore, the requirement that the walls must start six inches above the floor should be included in this variance. She also explained that the original permit did not include a loft; it was only for a garage. The application states that the loft is 25 square feet; however, the actual square footage of the loft is 550 square feet and the work has already been started.

Lannie Smith, Building Official for the City of Orange Beach, stated that the approval Mr. Roberts received in 2002 was only good for 180 days. If construction is not started within 180 days, then the project is deemed abandoned. Any previous approval would have no bearing on what is allowed today. It will have to meet the current criteria or receive a variance from the Board. He explained that for the loft, if the Board approves the variance, the city will require engineering certification design because the structure will not hold the load as it is built today.

Mr. Roberts said that there would be no change in the dimensions of the garage. Mrs. Alexander advised that increasing the floor area of any structure would be an increase of intensity. Mrs. Alexander stated that Mr. Roberts is adding a loft and enclosing a currently non-conforming structure and that he is asking for 3 variances: amount of coverage, side setbacks, and rear setbacks.

Vice Chairman Tem Blalock asked Attorney John Lawler about the legality of this request. Mr. Lawler advised that nonconformities are expected to go away - you should not add to them or improve them. If a variance is to be granted, then a hardship tied to the land should be present.

Board Member Bob Barnett asked Lannie Smith if engineering would be required for a newly constructed garage. Mr. Smith advised yes.

Mr. Blalock opened the public hearing. Phillip Alonzo, who owns the house to the south of Mr. Roberts' house, stated he objects to the enclosure of the structure because of the reduction in setbacks and overhang. He is worried that if anything catches fire in Mr. Roberts' loft, it will also catch his house on fire.

Motion made (Barnett/Young) to approve the submitted site plan. Vote revealed: Barnett, no; Blackwell, no; Blalock, no; Young, no; Peterson, no. **Denied (0-5).**

2. Case No. 1002-V-18, 5419 Florida Avenue

FM Holdings LLC requests approval of a variance to Section 4.03, Minimum Setbacks, to encroach 11.4 feet into the required 30-foot side setback along Canal Road for the purpose of constructing a single-family residence. The property is located at 5419 FLORIDA AVENUE in the RS-2 (Single-Family Residential) zoning district.

Mark Keel, owner of 5419 Florida Avenue, advised there is a hardship to his land and he is asking for a variance so he can build a 30-foot by 50-foot house. Vice Chairman Tem Blalock advised that one of the issues is that the City has taken over Canal Road and the City may need to widen that road at some point. He asked Kit Alexander, Community Development Director, for further information. Mrs. Alexander advised that there is not enough density on the east side of Canal Road to warrant widening the road in that area. There is currently no plan by the City to widen Canal Road at that location in the future.

Board Member Bob Barnett asked if the storage shed at the house just to the west of this one was within the 30-foot setback. Mr. Keel and Mrs. Alexander both advised that shed received a variance. Board Member Cecil Young asked if another lot nearby had been turned down for a variance recently. Mrs. Alexander advised that it was this same lot that had recently been turned down for a variance. She advised due to the width of this lot, it is not buildable without a variance.

Mr. Young advised, that in his opinion, the City Council should vote and the citizens who live down there should have a say so on decreasing the setbacks in that area before the Board of Adjustment votes on this.

Mr. Keel questioned the setbacks required because the recorded subdivision plat from 2011 says that the arterial setback is only 20 feet, not 30 feet. Mrs. Alexander confirmed that there is a 30-foot setback on Florida, a 30-foot arterial setback on Canal, a 10-foot side setback, and a 20-foot side setback. She advised that it must be an error in the notations on the plat by the surveyor and that the

plat does not override the Zoning Ordinance. Mr. Keel advised in that case, he is asking for a variance of eleven and one-half feet.

Mr. Young said he is still in favor of keeping the required 30-foot setbacks down in Bear Point and he feels the roads may need to be widened there in the future. Mr. Blalock advised that Mr. Keel should have a right to build on the lot, but maybe the Council needs to vote on it first.

Mr. Blalock opened the public hearing. Bubba Ray, owner of 5420 Florida Avenue, said he is not for or against it, but he had to meet the 30-foot setback on his property. He stated he also owns a lot on the corner of Mississippi Avenue and Canal Road and if Mr. Keels gets a variance, why can't he get a variance on his property too.

Charles Dix, owner of 5384 Baldwin, has a 96 square foot storage building. When he presented his own variance for the storage building, the Board made recommendations of how to re-position it. He suggested that maybe the Board could make recommendations for Mr. Keel to help make it work, maybe move the house over or forward a bit.

Mrs. Alexander advised that the lot does not have the depth for the house to face Canal Road. The house would have to face Florida Avenue. Lannie Smith, Building Official, stated that what could be built on that lot by right would be the equivalent of a single wide mobile home. Mr. Keel stated that if he could get an eight-foot variance as a compromise, he could build a house that everyone could be proud of and make it work.

Mrs. Alexander advised that the Board can give suggestions to Mr. Keel, but should then let him come back next month with a new proposal that might be more acceptable to the Board. Mr. Blalock said they could table the variance request and he could come back next month. Mr. Keel agreed that he would like it to be tabled.

Motion made (Blackwell/Barnett) to table the application until the next meeting. Vote revealed: Barnett, yes; Blackwell, yes; Blalock, yes; Young, yes; Peterson, yes. **Tabled (5-0).**

Mrs. Alexander consulted with Attorney John Lawler regarding noticing. She said if there is a decrease in the setback, then we do not need to notice again. But if there is a change to the setback, such as the encroachment is on a different side, then we do need to notice again. John Lawler confirmed that he agreed with that.

Board Member Tim Blackwell asked how many more vacant lots are in Bear Point on Canal Road. Mrs. Alexander advised that she and Griffin Powell, the City Planner, will get an answer for that question.

E. APPEALS

F. NEW BUSINESS

G. OTHER BUSINESS

Gundy Britt Roberts referred to his case (1001-V-18) and advised that he had already purchased a roll-up garage door for the structure. He asked if he could still install that door for security purposes even though he cannot enclose the building. Mrs. Alexander advised that the loft will have to be removed. Lannie Smith said that adding the door would also be an increase to the non-conformity so it would not be allowed.

Due to the Thanksgiving holidays, the Board rescheduled the November 21, 2018 meeting to November 28, 2018.

H. ADJOURN

Vice-Chairman Tem Blalock adjourned the meeting at 4:59 P.M.

Respectfully submitted,

Mindy Smith
Community Development Office Manager

Approved,

Tem Blalock
Board of Adjustment Vice-Chairman