



# CITY OF PRATTVILLE

**BILL GILLESPIE, JR.**  
MAYOR

---

## CITY COUNCIL

**WILLIE WOOD, JR.**  
PRESIDENT  
DISTRICT 2

**ALBERT C. STRIPLIN**  
PRESIDENT PRO TEMPORE  
DISTRICT 1

**DENISE B. BROWN**  
DISTRICT 3

**JERRY STARNES**  
DISTRICT 4

**GARY L. WHITESIDE**  
DISTRICT 5

**RAY C. BOLES**  
DISTRICT 6

**LORA LEE BOONE**  
DISTRICT 7

## City of Prattville Board of Zoning Adjustment

The minutes of the November 10, 2015 regular meeting of the City of Prattville Board of Zoning Adjustment were approved.

---

Leo Jamieson, Chairman

February 9, 2016

Date

Planning & Development Department

102 West Main Street ■ Prattville, Alabama 36067 ■ 334-595-0500 ■ 334-361-3677 Facsimile  
planning.prattvilleal.gov



# CITY OF PRATTVILLE

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**CITY OF PRATTVILLE  
BOARD OF ZONING ADJUSTMENT  
A G E N D A  
November 10, 2015  
4:00pm**

**Call to Order:**

**Roll Call:**

Chairman Leo Jamieson, Vice-Chairman James Miles, Mr. Jerry Cimis, Mr. Mac Macready, and Mrs. Jerry Schanep.

**Minutes:**

September 8, 2015 and October 13, 2015

**Old Business:**

None

**New Business:**

1. 151110-01     VARIANCE

To encroach 30' into the required 40' rear yard setback.  
101 Tew Court  
R-2 Zoning District (Single Family Residential)  
Gynell Manning, Petitioner

*District 3*

2. 151110-02     VARIANCE

To change the required perimeter and frontage landscape setback.  
2579 Cobbs Ford Road  
B-4 Zoning District (Highway Commercial)  
Fourteen Foods, Petitioner

*District 5*

3. 151110-03     VARIANCE

To add to an existing non-conforming structure.  
213 Spruce Street  
R-2 Zoning District (Single Family Residential)  
Marvin J. Jr. and Leora B. Gray, Petitioner

*District 7*

**Miscellaneous:**

**Adjourn**

**City of Prattville Board of Zoning Adjustment  
Minutes  
November 10, 2015**

**CALL TO ORDER:**

The regular meeting of the Prattville Board of Zoning Adjustment (BZA) was called to order by Chairman Leo Jamieson at 4:02 p.m. on Tuesday, November 10, 2015.

**ROLL CALL:**

Present: Chairman Leo Jamieson, Vice-Chairman James Miles, Mr. Gerald Cimis, Mr. Mac Macready, and Alternate member Mr. Jerry Crosby. Absent: Mrs. Jerry Schannep.

***Quorum Present***

Staff present: Mr. Joel Duke, City Planner and Ms. Alisa Morgan, Secretary.

Chairman Jamieson stated the governing rules for the Prattville Board of Zoning Adjustment according to the *Code of Alabama, 1975* and the procedure of the meeting.

**MINUTES:**

The minutes of the September 8, 2015 and October 13, 2015 meetings were unanimously approved.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**VARIANCE**

**To encroach 30' into the required 40' rear yard setback.**

**101 Tew Court**

**R-2 Zoning District (Single Family Residential)**

**Gynell Manning, Petitioner**

Mr. Duke introduced the request for the variance on property 101 Tew Court in an R-2 zoning district. He stated that the petitioner is requesting to encroach approximately 30' into the 40' required rear yard. He stated that there was no variance found for the original structure that was placed at an angle in 1962, which caused a portion of the structure to encroach 22.5' into the rear yard setback. He stated that a variance was approved in 1987 to permit encroachment into the front yard setback. He stated that the proposed variance would increase the encroachment to 29.5' into the rear yard setback.

Richard Manning, petitioner's representative, presented the request to allow for a handicapped accessible bathroom addition to his mother's home in which he shares. He stated that the addition would improve the flow and function of the house. He also stated that it is not possible to remodel the existing space.

Chairman Jamieson opened the public hearing. There were none to speak. The public hearing was closed.

Mr. Cimis stated that the petitioner's statement of hardship is not valid because it is not tied to the land and cannot be supported for a variance.

After no further comments, questions, or discussion, the vote was called. The BZA voted unanimously

to deny the variance to encroach 30' into the required 40' rear yard setback on property located at 101 Tew Court.

**VARIANCE**

**To change the required perimeter and frontage landscape setback.**

**2579 Cobbs Ford Road**

**B-4 Zoning District (Highway Commercial)**

**Fourteen Foods, Petitioner**

Mr. Duke introduced the variance request to change the required parking and landscape setback for property at 2579 Cobbs Ford Road. He stated that the property had received a variance approval in December 2012 for a reduction in the parking lot landscaping setback and parking space requirement; however the proposed commercial use was not built. He stated that the present variance request is to reduce the frontage (south) setback from 20' to 6' and the perimeter (north and west) setback from 10' to 3'. The vegetation requirement amount would remain the same and parking amount presented on the site plan is adequate for the proposed use.

Brian Peterson of Fourteen Foods, petitioner's representative, presented the variance request for changes to the required landscape setback. He stated that there is environmental remediation equipment in place at the northwest corner of the lot for approximately three to five years which reduces the amount of lot that is developed. He stated that the proposed site plan allows for enough parking and will accommodate the environmental remediation equipment.

Mr. Cimis stated that the need for a north side perimeter landscape variance could be resolved by removing the proposed outside seating. He also suggested making the traffic flow one way could eliminate the need for a variance on the west side.

Chairman Jamieson asked Mr. Duke what is the staff's perspective on the development. Mr. Duke commented that the lot was platted prior to the landscape ordinance. He stated that the traffic pattern as presented in the request would work. He stated that with the presented plan, the spirit of the ordinance is maintained and the required amount of landscaping material is provided on site.

Justin Kraus Vice President of Fourteen Foods stated that the reason for the variance request on the north and west side (accommodation of the soil remediation, the dumpster enclosure, and the cross access easement) is addressed in the proposed site plan.

Chairman Jamieson opened the public hearing.

Jon Lee Finnegan, 211 Deer Trace, spoke in opposition to the request whether this is the best location for the business and the amount of traffic increase.

Mr. Duke stated that the property is properly zoned B-4 and can accommodate increased traffic.

After no further comments, questions, or discussion, the vote was called. Mr. Cimis moved to approve the request to change on the north (perimeter) setback -northeast corner at 10' and slowly taper to 3' to the northwest corner near the soil remediation equipment; the south (frontage) setback-reduce from 20' to 6'; the west (perimeter) setback-reduce from 10' to 3'; the east (perimeter) setback-no reduction in the setback. Mr. Crosby seconded the motion. The BZA voted unanimously to approve the variance to change the required perimeter and frontage landscape setback as specified on property located at 2579 Cobbs Ford Road.

**VARIANCE**

**To add to an existing non-conforming structure.**

**213 Spruce Street**

**R-2 Zoning District (Single Family Residential)**

**Marvin J. Jr. and Leora B. Gray, Petitioner**

Mr. Duke introduced the variance request to add to an existing non-conforming structure at 213 Spruce Street. He stated that the existing house was built in the 80's with an apparent 5' encroachment into the rear yard setback. He stated the violation was found when the petitioner made application for a permit to demolish an existing deck and add a room to the rear of the structure. The addition/work for which the current permit is requested is not a part of, nor does it increase the rear yard encroachment. The applicant is requesting a variance to account for the non-conformance of the existing structure and allow for the expansion of a non-conforming structure.

Don Miller, petitioner's representative, presented the variance request to add to the existing non-conforming structure by encroaching into the rear yard setback at 213 Spruce Street.

Mr. Cimis stated that he would support the addition to a nonconforming structure since the addition was minor and would not significantly increase the useful life of the main structure.

After no further comments, questions, or discussion, the vote was called. The BZA voted unanimously to approve the variance to add to an existing non-conforming structure on property located at 213 Spruce Street.

**MISCELLANEOUS:**

**ADJOURN:**

After no further comments, questions or discussion the meeting was adjourned at 5:45 p.m.

Respectfully submitted,



Alisa Morgan, Secretary  
Board of Zoning Adjustment

**PRATTVILLE BOARD OF ZONING ADJUSTMENT**

**PETITIONER:** GYNELL MANNING  
101 TEW COURT  
PRATTVILLE, AL 36066

**REQUEST:** VARIANCE TO ENCROACH 30' INTO THE REQUIRED 40' REAR  
YARD SETBACK.  
101 TEW COURT  
R-2 ZONING DISTRICT (SINGLE FAMILY RESIDENTIAL)

**ORDER**

The above petition having been duly considered at a public hearing meeting before the Board of Zoning Adjustment of the City of Prattville, having been advertised in *The Prattville Progress*, a newspaper of general circulation in the city limits of Prattville, Alabama, and setting forth notice of the request for a variance to the Zoning Laws of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held on November 10, 2015 at the City Hall in Prattville, Alabama, and after due consideration of the party in interest, the Board of Zoning Adjustment of the City of Prattville **voted to deny the variance to allow to encroach 30' into the required 40' rear yard setback on property at 101 Tew Court.**

**IT IS THEREFORE ORDERED** the petition of Gynell Manning, 101 Tew Court, Prattville, AL is hereby denied.

**DONE THIS THE 10th DAY OF November 2015.**

**BOARD OF ZONING ADJUSTMENT**

  
\_\_\_\_\_  
LEO JAMIESON, CHAIRMAN

  
\_\_\_\_\_  
ALISA MORGAN, SECRETARY

**CITY OF PRATTVILLE BOARD OF ADJUSTMENT  
PUBLIC HEARING  
SPEAKERS SIGN-IN SHEET**

**MEETING DATE:** November 10, 2015

**PETITIONER:** Gynell Manning

**ADDRESS OF PETITION:** 101 Tew Court

	<b>NAME</b>	<b>ADDRESS</b>
1.	<i>Gynell Manning</i>	<i>101 TEWCOURT</i>
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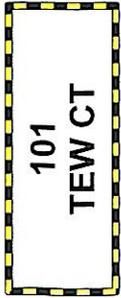
**CITY OF PRATTVILLE**  
Board of Zoning Adjustment

Planning Department Staff Report



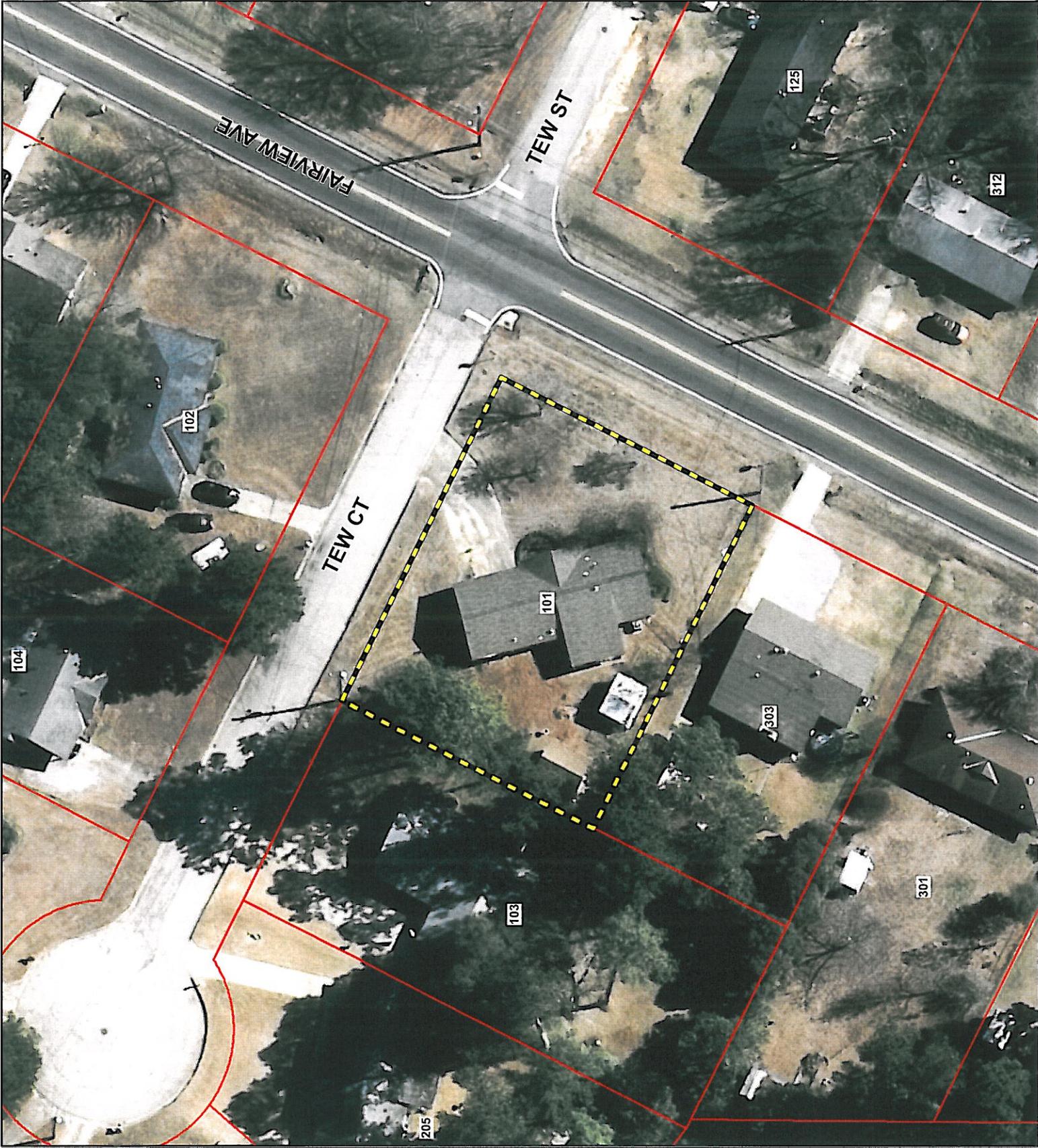
<b>DATE:</b>	10/26/15
<b>APPLICATION TYPE:</b>	Variance (151110-01)
<b>PROPERTY LOCATION or DESCRIPTION:</b>	101 Tew Court
<b>PETITIONER(S) AND AGENT(S):</b>	Gynell Manning Representative: Richard Manning
<b>ZONING DISTRICT(S)</b>	R-2 (Single Family Residential)
<b>REQUESTED ACTION:</b>	Variance to encroach 30' into the required 40' rear yard setback.
<b>ZONING ORDINANCE REFERENCE:</b>	<b>Appendix A-Zoning Ordinance Section 71 Residential district requirements:</b> <b>R-2 District:</b> Minimum Yard Size Front yard - 35' Rear Yard – 40' Side Yard – 10'

CITY OF  
PRATTVILLE, AL



Zoning: R-2

Scale: 1" = 50'





151110-01

Variance

To encroach 30' into the required 40' rear yard setback

City Of Prattville  
Planning and Development Department  
102 W. Main Street  
Prattville, AL 36067  
(334) 361-3614 Fax (334) 361-3677  
www.prattvilleal.gov

**Application  
Prattville Board of Zoning Adjustment**

Application type:  Use-On-Appeal  Variance  Administrative Appeal

**Applicant /Agent Information**

*Notarized letter from the property owner is required if agent is used for representation*

Name: Richard Manning

Street Address: 101 Tew Court

City: Prattville State Al Zip: 36066

Phone Number(s): 799-9927

**Property Owner Information**

*If different than above*

Name: Gynell Manning

Address of Property Owner: 101 Tew Court

City: Prattville State: Al Zip: 36066

Phone Number: ( 334 ) 365-6835

**Property Description**

County Tax Parcel Number/Legal Description: TIN 19021020070400000,

**Lot 3, Block 1 of the North Crestview Heights, Plat 3 Sub. as recorded at Book 86, Page 184 in the Office of the Probate Judge of Autauga County**

Current Zoning of Property: R-2 Physical Address: 101 Tew Court

Proposed Use of Property (generally): Residential

Describe Proposed Use or Variance: \_\_\_\_\_

**Existing structure was permitted and built in 1962 with the SE corner at 17.5' from the rear line due to the angle of the house on the lot. Carport enclosed and new carport added in 1987 with variance granted for front yard encroachment. Request variance to allow for an side addition and rear addition which will be place the new structure 10.416 feet from the rear line.**



The following items must be attached to the application (check those items included):

- Tax record map from the Autauga County or Elmore County Tax Assessors Office
- Site sketch plan (drawn to scale) showing any property lines, required and proposed setbacks, existing and proposed structures and any additional information you believe will be helpful to the Board of Adjustment
- Application fees: Variance and Administrative Appeal - Fifty dollars (\$50), Use-on-Appeal – Two hundred fifty dollars (\$250).
- Names and address of all property owners immediately adjacent to the subject property (not required for administrative appeals). Adjacent properties include those directly across the street from the subject property.
- If person signing application is someone other than property owner, attach authorization to file application (i.e. notarized letter, real estate contract, etc.)

**Hardship:** The Board requests a statement of hardship to justify any variance application:

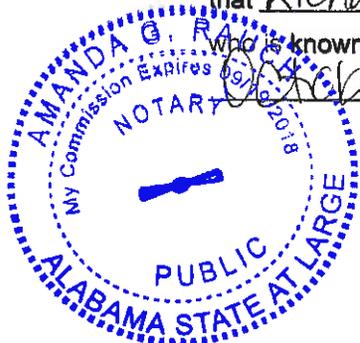
"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done." *Code of Alabama, 1975, as amended. § 11-52-80(d) (3)*

The primary reason for this addition is to provide a handicap accessible bathroom and shower for my Mother who is 91 and to improve the flow and livability of the home.

I certify that I am the property owner, or authorized agent, and attest that all facts are true and correct. I do hereby certify that the property owner list attached to this application was obtained from the Autauga County Revenue Office, (Elmore County if applicable), and is a complete list of all real property owners adjacent to the parcel submitted for consideration. I also attest that I have read and understand what a hardship is according to the *Code of Alabama, 1975, as amended.*

RICHARD MANNING      *Richard Manning*      10/8/2015  
 Printed Name                      Signature                      Date

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Richard Manning, whose name is signed to the forgoing petition, and who is known to me, acknowledged same before me on this the 8 day of October, 2015.



*Amanda G. Raulo*  
 Notary Public  
 My commission expires 9-19-2018

October 8, 2015

To Whom It May Concern,

This document is to certify that my son, Richard Manning, is authorized to file for a variance on my property at 101 Tew Court, Prattville, Al 36066 and to represent me in this matter.

Gynell Manning  
Gynell Manning

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Gynell Manning, whose name is signed to the foregoing document, and who is known to me, acknowledged same before me on this the 8 day of October, 2015.



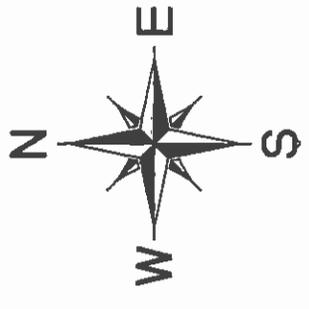
Amanda G. Rauch  
Notary Public

My commission expires September 19, 2018

Variance  
To encroach 30' into the required 10' rear yard setback

MAP OF Survey

LOT 5, BLOCK 1, NORTH CRESTVIEW HEIGHTS  
PLAT NO 3  
AS RECORDED IN DEED BOOK 86, PAGES 184-185  
JUDGE OF PROBATE OFFICE, AUTAUGA COUNTY, ALABAMA



Scale: 1"=30'

LEGEND

- 6 POWER BOX
- POWER POLE
- FENCE LINE
- + CABLE( ) JUNCTION BOX
- 5 TELEPHONE( ) JUNCTION BOX
- ( ) FIELD MEASURED
- NOT TO SCALE
- ( ) SET #5 REBAR( ) CAPED W/ GLEN TANNER 2009
- 1/2" OPEN IRON FOUND
- 1/2" CRIMPED IRON FOUND
- 0 #4 REBAR FOUND
- #5 REBAR FOUND( ) CAPED W/ GLEN TANNER 2009
- 7 CONCRETE MONUMENT FOUND
- Q CALCULATED POINT

\* BEARING TAKEN FROM PLAT \*

SUBJECT TO ALL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS WHICH EXIST AS A MATTER OF RECORD OR EXIST DEFACTO

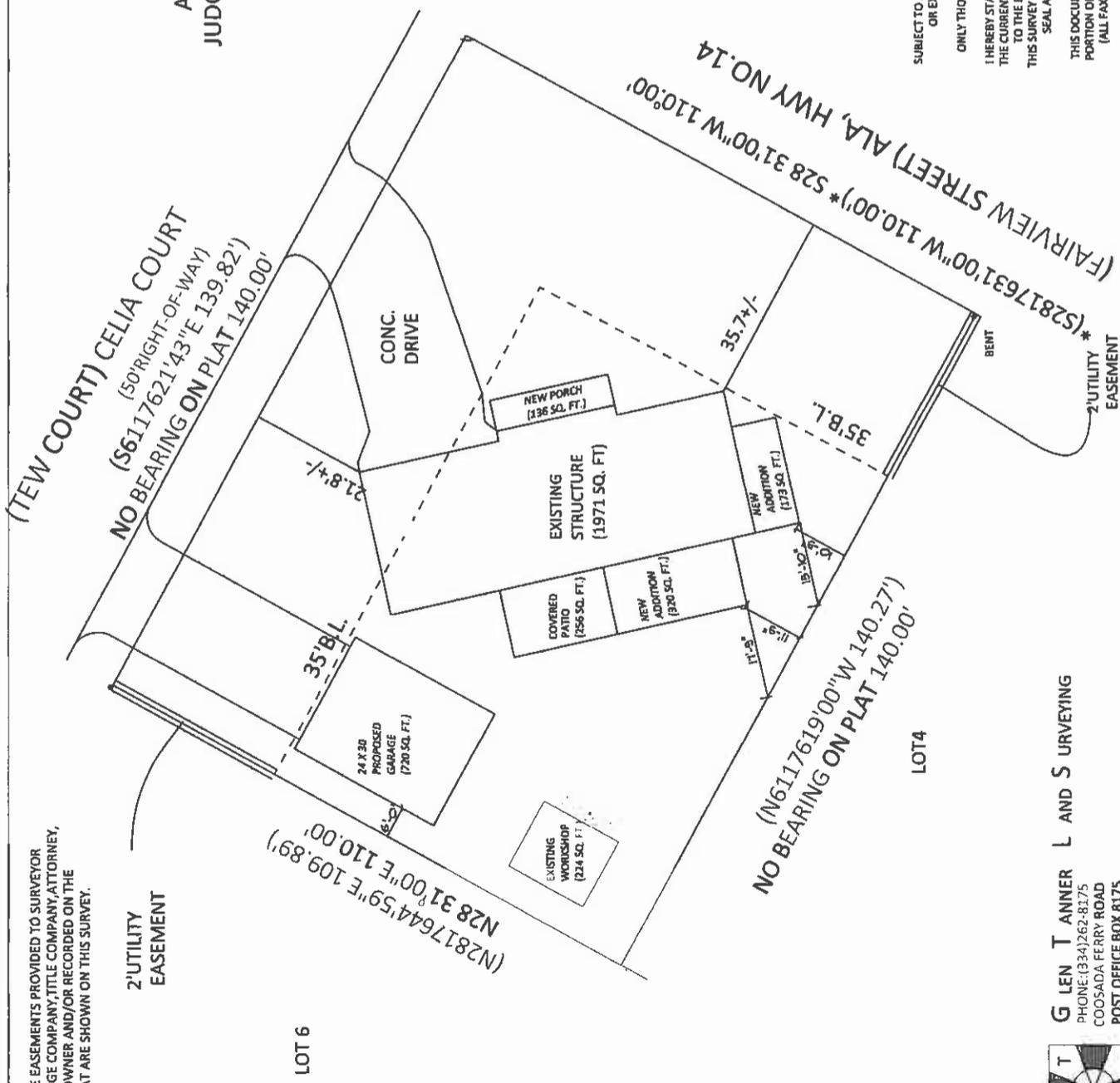
ONLY THOSE IMPROVEMENTS AND/OR ENCROACHMENTS SEEN WERE PICKED UP OR SHOWN.

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

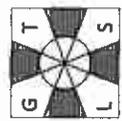
THIS SURVEY MAY NOT BE REPRODUCED WITHOUT WRITTEN PERMISSION AND IS NOT VALID WITHOUT EMBOSSED SEAL AND AN ORIGINAL SIGNATURE

THIS DOCUMENT, IDEAS AND INFORMATION ARE THE PROPERTY OF AND COPYRIGHTED BY GLEN TANNER AND NO PORTION OF THIS DOCUMENT MAY BE ALTERED, RECORDED, HANDLED OUT TO OR USED BY A THIRD PARTY (ALL FAXES AND COPIES ARE INVALID AND MAY NOT BE USED)

ACCORDING TO MY SURVEY THIS THE 15TH DAY OF SEPTEMBER 2015, VALID FOR DATE SHOWN.



ONLY THOSE EASEMENTS PROVIDED TO SURVEYOR BY MORTGAGE COMPANY, TITLE COMPANY, ATTORNEY, PROPERTY OWNER AND/OR RECORDED ON THE FACE OF PLAT ARE SHOWN ON THIS SURVEY.



GLEN TANNER L AND S SURVEYING  
PHONE: (334) 262-8175  
COOSADA FERRY ROAD  
POST OFFICE BOX 8175  
MONTGOMERY, ALABAMA 36110-0175

SURVEY NO.: 15-144  
FIELD BOOK: 15-01  
SURVEY DRAWN: 09-15-15  
FIELD WORK PERFORMED: 09-11-15  
E-MAIL: LANDSURVEYOR@GTL.COM  
WWW.GLENTANNERLANDSURVEYING.COM

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GLEN TANNER PLS# 20899



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**CITY OF PRATTVILLE**  
Board of Zoning Adjustment  
Planning Department Staff Report



**VARIANCE** 101 Tew Court  
BZA Application – 151110-01

**DATE** November 8, 2015

**PROPOSED DEVELOPMENT**

**Petitioner:** Richard Manning  
**Property Owners:** Gynell Manning  
**Agent:** Richard Manning  
**Location:** 101 Tew Court  
Prattville, AL 36066

**Development Status and History**

*Previous Variance Requests/Approvals:* Variance – Approved April 21, 1987 – Request to permit addition (main structure) to encroach 3 feet into the required front setback. Order and minutes included as Attachment A

*Conditions of Previous Approvals:* Addition on the north side of the structure was permitted to encroach 3' into the front setback. (Request and order appear to be measured from the curb rather than the front property line. Front corner of the structure is actually located 13' into the required 35' front setback.)

**Property Configuration**

*Acreeage:* 0.35 acres (15,246 square feet)

*Zoning Classification:* R-2, Single Family Residential

*Relevant District Standards:* Section 4. – Uses  
(B) Any use or structure existing at the time of enactment or of subsequent amendment to this ordinance, but not in conformity with its provisions, may be continued with the

following limitations: Any use or structure which does not conform to the provisions of this ordinance, except with the written approval of the Board of Zoning Adjustment, shall not be:

- (a) Chained to another nonconforming use.
- (b) Re-established after discontinue [discontinuance] for one (1) year.
- (c) Rebuilt after fire or storm loss, exceeding its value, above foundation, at the time of loss.

Section 5. - Building lots, yards and open spaces.

In each district, each structure, hereafter erected or altered, shall be provided with the yards specified and shall be on a lot of the area and width specified in Article 7. No open space or lot required for a building or structure shall during its life be occupied by or counted as open space for another building or structure.

Exceptions to the district requirements for building lots and yards follow:

a. Where the owner of a lot of official record at the time of adoption of this ordinance does not own sufficient adjacent land to enable him to conform to the yard and other requirements of this ordinance, one (1) building and its accessory structures may be built provided the yard space and other requirements conform as closely as possible, in the opinion of the Board of Zoning Adjustment, to the requirements of the district in which it is located; and further provided that neither side yard shall be reduced to less than five (5) feet in width.

b. No building need be set back more than the average of the setbacks of the existing residences within one hundred (100) feet each side thereof.

Section 68 – Definitions.

Yard, rear. The yard extending across the entire width of the lot between the main building, including covered porches, and the rear lot line.

Section 71— R-2 Districts

Minimum Lot Size: 10,500 square feet

Maximum Lot Coverage: 45%

Yard Setbacks:

Front: 35'

Rear: 40'

Sides: 10'

*Requested Variance:*

Effective variance as re-stated by staff (see application for applicant statement):

Existing structure built in 1962 was placed to face the corner of Tew Court and Fairview Avenue. By placing the structure at an angle, a portion of the structure encroached into the required rear yard setback. City records do not show a variance for this original structure.

Applicant requests permission for improvements/additions which will increase existing encroachments into required 40' rear setback.

1. Existing encroachment: 22.5' (Distance of closest existing structure corner to the property line: 17.5')
2. Encroachment with requested additions: 29.5' (Requested distance of closest corner of the new structure to the property line: 10.4')

*Statement of Hardship:*  
(taken from application)

"The primary reason for this addition is to provide a handicapped accessible bathroom and shower for my Mother who is 91 and to improve the flow and livability of the home."

## **PLANNING STAFF EVALUATION**

**Reviewed by:** Joel T. Duke, AICP

**Site Visits Conducted:** October 6, 2015

**Recommendation:** Denial.

1. Applicant requests permission to extend and increase the present non-conformance of the structure.

2. Request is not necessary for the continued use of the structure and the property.
3. Hardship identifies a condition assigned to an occupant, which is temporary. Variance will allow for a permanent adjustment/addition to the structure, which will exist longer than occupancy by the current resident.

**Planning Staff Comments:**

State code, board rules, and best practices require the BZA to measure variance requests against several basic standards. Below is the Planning Department staff's opinion regarding the standards and this request.

1. No special conditions and circumstances exist regarding this structure which are not applicable to other lands, structures, or buildings in the same R-2 zoning district.
2. A literal interpretation of the zoning ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
3. The special conditions and circumstances do result from actions of the applicant.
4. The granting of a variance will confer a special privilege on the applicant that is denied by this ordinance to other lands, structures, or buildings in the same R-2 district;
5. The granting of a variance is not in harmony with the intent and purposes of the zoning ordinance;
6. A variance will adversely affect the surrounding property, the general neighborhood, or the community as a whole;
7. A variance will not allow the establishment of a use prohibited under the terms of the zoning ordinance in an R-2 district.

**ATTACHMENTS**

- A. Minutes of April 21, 1987 BZA Meeting

**ATTACHMENT A**

BOARD OF ADJUSTMENTS  
STATE OF ALABAMA

PETITIONER: LESTER MANNING  
101 TEW COURT  
PRATTVILLE, ALABAMA

O R D E R

The above petition having been duly considered at a public hearing meeting before the Board of Adjustments of the City of Prattville, after having been advertised in the progress, a newspaper of general circulation in the city limits of the City of Prattville for two consecutive weeks setting forth notice of the request for a variance to the zoning laws of the City of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held April 21, 1987, at 9:00 a.m. at the City Hall in Prattville, Alabama and after due consideration of the testimony and exhibits presented to the party in interest at the said meeting of said Board, the Board of Adjustments of the City of Prattville voted to grant the request for a variance to extend storage room and enclosed front portion for a garage. This addition will be 3 feet to close to the street.

IT IS THEREFORE ORDERED, that the petition of Mr. Lester Manning, 101 Tew Court Prattville, Alabama, be and the same is hereby granted.

DONE THIS THE 21 DAY OF April, 1987.

BOARD OF ADJUSTMENTS

  
CHAIRMAN

  
NOTARY PUBLIC

Board of Adjustments

April 21, 1987

M I N U T E S

The regularly scheduled meeting of the Prattville Board of Zoning Adjustments was called to order by Chairman Jim Gillian at the City Hall on Tuesday, April 21, 1987, at 9:00 a.m. Members present were Mr. Cherry, Chairman Gillian, Mr. Striplin, Mr. Crosby. Absent were Mr. Douglas, Mr. Hollon.

READING OF MINUTES:

The minutes of the March 30, 1987, meeting were approved as read.

OLD BUSINESS:

PETITIONER, MR. GEORGE CREEL, REQUEST PERMISSION TO PERMIT THE ESTABLISHMENT OF A FUNERAL HOME AS A RESULT OF HARDSHIP. PETITIONER FURTHER PURPOSES TO RELOCATE USE AND TO ABANDON HIS PREVIOUS ORDER FOR A FUNERAL CHAPEL. Mr. Creel came before the Board and stated that he proposed to build a full service funeral home on the pond area of the cemetery. He stated that the funeral home would cover approximately 3 acres of land and the cost would run between 750,000.00 to 800,000.00 dollars. Mr. Creel would employ six (6) people and would have parking for 150 cars. Chairman Gillian asked how far back off of Highway 14 would the funeral home set? Mr. Creel stated that he would be 100 feet from the easement on Highway 14. Mr. Crosby asked where would the parking area be? Mr. Creel stated that it would be to the left and rear of the building. Mr. Striplin asked about the drainage. Mr. Creel stated that the engineers' would take care of the drainage. Mr. Striplin also asked about the traffic. Mr. Creel stated that he felt the traffic situation would be better because the people would not have to caravan to the cemetery, they would already be there and they could walk to the grave site. There may be some elderly people that may have to ride to the site, but they would already be in the cemetery. Chairman Gillian asked was there anyone to speak in favor of the petition. There was no one. Chairman Gillian asked was there anyone to speak in opposition. Mr. Richard Garrett, came before the Board and stated that his daughter was buried in Memory Gardens close to the area that Mr. Creel is proposing to build the funeral home and he would hate to see the beautiful view of the pond area taken away. Chairman Gillian asked were there any further questions or comments. Chairman Gillian stated that since the location of the funeral home had been changed to Parcel A (pond area) this area, in his opinion, was unfit for the conforming use and this consequently causes a hardship for the owner.

-continued-

There being no further discussion, motion was made by Mr. Cherry to grant the request for a full service funeral home with the conditions that the drainage plan and site plan have the approval of the City's engineer. Also to abandon the previous Order for a funeral chapel. Motion was seconded by Mr. Crosby. Chair called for a vote, which was unanimous.

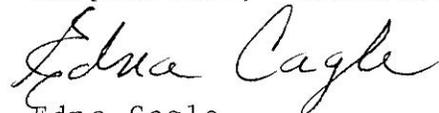
NEW BUSINESS:

PETITIONER, MR. LESTER MANNING, 101 TEW COURT, REQUEST A VARIANCE TO EXTEND STORAGE ROOM AND ENCLOSE FRONT SECTION FOR A GARAGE. Mr. Manning was present and came before the Board. He stated that he had contacted the storage room and garage out and when the contractor called for an inspection, the inspector found that I was three (3) feet to close to the street. The inspector informed me that I would have to apply for a variance. Mr. Manning presented letters from the adjoining property owners, Mr. Virgil Cooper and Mr. Charles Culberson, who had no objection to this variance. Mr. Manning also presented letters from other neighbors in the area who were not opposed to the request.

Chair asked was there anyone to speak in opposition. There was no one. There being no further discussion, motion was made by Mr. Striplin and seconded by Mr. Cherry to grant the variance as requested. Chair called for a vote, which was unanimous.

There being no further business to come before the Board the meeting adjourned.

Respectfully submitted,



Edna Cagle  
Secretary

APPROVED:

  
CHAIRMAN

## PRATTVILLE BOARD OF ZONING ADJUSTMENT

**PETITIONER:**           **FOURTEEN FOODS**  
**7101 WEST 78<sup>TH</sup> STREET, SUITE 100**  
**MINNEAPOLIS, MN**

**REQUEST:**           **VARIANCE TO CHANGE THE REQUIRED PERIMETER AND**  
**FRONTAGE LANDSCAPE SETBACK.**  
**2579 COBBS FORD ROAD**  
**B-4 ZONING DISTRICT (HIGHWAY COMMERCIAL)**

## ORDER

The above petition having been duly considered at a public hearing meeting before the Board of Zoning Adjustment of the City of Prattville, having been advertised in *The Prattville Progress*, a newspaper of general circulation in the city limits of Prattville, Alabama, and setting forth notice of the request for a variance to the Zoning Laws of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held on November 10, 2015 at the City Hall in Prattville, Alabama, and after due consideration of the party in interest, the Board of Zoning Adjustment of the City of Prattville **voted to approve the variance to the required perimeter and frontage landscaping setbacks on property located at 2579 Cobbs Ford Road with the following adjustments to the applicant's submitted site plan:**

- 1) North setback (perimeter) – setback at NE corner set at 10' and allow to taper to 3' at the NW corner near the soil remediation equipment,
- 2) South setback (frontage) – reduction from 20' to 6',
- 3) West setback (perimeter) – reduction from 10' to 3' and
- 4) East setback (perimeter) – no variance or reduction in setback.

**IT IS THEREFORE ORDERED** the petition of Fourteen Foods, 7101 West 78<sup>th</sup> Street, Suite 100, Minneapolis, MN is hereby approved.

**DONE THIS THE 10th DAY OF November 2015.**

BOARD OF ZONING ADJUSTMENT

  
 LEO JAMIESON, CHAIRMAN

  
 ALISA MORGAN, SECRETARY

**CITY OF PRATTVILLE BOARD OF ADJUSTMENT  
PUBLIC HEARING  
SPEAKERS SIGN-IN SHEET**

**MEETING DATE:** November 10, 2015

**PETITIONER:** Fourteen Foods

**ADDRESS OF PETITION:** 2579 Cobbs Ford Road

	NAME	ADDRESS
1.	<u>Brian Peterson</u>	<u>7101 W 71<sup>st</sup> St., Minneapolis, MN 554</u>
2.	<u>Juan Kears</u>	<u>"</u>
3.	<u>Jon Lee Finneon</u>	<u>211 Deer Trce</u>
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**CITY OF PRATTVILLE**  
Board of Zoning Adjustment

Planning Department Staff Report



<b>DATE:</b>	10/28/15
<b>APPLICATION TYPE:</b>	Variance (151110-02)
<b>PROPERTY LOCATION or DESCRIPTION:</b>	2579 Cobbs Ford Road
<b>PETITIONER(S) AND AGENT(S):</b>	Fourteen Foods Representative: Brian Peterson
<b>ZONING DISTRICT(S)</b>	B-4 (Highway Commercial)
<b>REQUESTED ACTION:</b>	To change the required perimeter and frontage landscape setback.
<b>ZONING ORDINANCE REFERENCE:</b>	<p><b>Landscaping Ordinance Article 13 Section 135 General Site and Off-Street Parking Area Landscaping Requirements.</b></p> <p>(a) <u>Frontage Landscaping and Foundation Planting Requirements.</u> Frontage landscaping shall require a landscaped strip with a minimum 10-foot depth along all adjacent public rights-of-way. Frontage landscaping shall include a minimum of one (1) tree and six (6) shrubs per full forty (40) linear feet of the frontage strip; shrubs are optional in areas where a berm at least four (4) feet in height is used, Trees and shrubs shall be well distributed, though not; necessarily evenly spaced.</p> <p>A lot with less than one hundred fifty (150) feet frontage and adjacent to a right-of-way shall have a frontage strip depth of ten (10) feet; a lot with one hundred fifty (150) feet to two hundred fifty (250) feet frontage shall have a frontage strip depth of twenty (20) feet; a lot with over 250 feet frontage shall have a frontage strip depth of thirty (30) feet...</p>

CITY OF  
PRATTVILLE, AL

2579  
Cobbs Ford Rd

Zoning: B-4

Scale: 1" = 100'



STREETS  
TAX PARCEL





151110-02

Variance

To change the required perimeter and frontage landscape setback

City Of Prattville  
Planning and Development Department  
102 W. Main Street  
Prattville, AL 36067  
(334) 361-3614 Fax (334) 361-3677  
www.prattvilleal.gov

**Application  
Prattville Board of Zoning Adjustment**

Application Type:  Use-On-Appeal  Variance  Administrative Appeal

**Applicant /Agent Information**

*Notarized letter from the property owner is required if agent is used for representation*

Name: Fourteen Foods (Brian Peterson)

Street Address: 7101 West 78th St., Suite 100

City: Minneapolis State MN Zip: 55439

Phone Number(s): 952-542-6708

**Property Owner Information**

*If different than above*

Name: Ronald W. Russell

Address of Property Owner: 3378 Tankview Court

City: Montgomery State: AL Zip: 36108

Phone Number: ( ) \_\_\_\_\_

**Property Description**

County Tax Parcel Number/Legal Description: 26030800010310040

Current Zoning of Property: B-4 Physical Address: 2579 Cobb's Ford Road

Proposed Use of Property (generally): Dairy Queen Restaurant

Describe Proposed Use or Variance: \_\_\_\_\_

Variance requested for the required frontage and perimeter landscape depths.

The required and proposed landscape setbacks are as follows:

north property line: (perimeter) required 10' proposed: 3'

west property line: (perimeter) required 10' proposed 3'

south property line: (frontage) required 20' proposed 6'

The following items must be attached to the application (check those items included):

- Tax record map from the Autauga County or Elmore County Tax Assessors Office
- Site sketch plan (drawn to scale) showing any property lines, required and proposed setbacks, existing and proposed structures and any additional information you believe will be helpful to the Board of Adjustment
- Application fees: Variance and Administrative Appeal - Fifty dollars (\$50), Use-on-Appeal - Two hundred fifty dollars (\$250).
- Names and address of all property owners immediately adjacent to the subject property (not required for administrative appeals). Adjacent properties include those directly across the street from the subject property.
- If person signing application is someone other than property owner, attach authorization to file application (i.e. notarized letter, real estate contract, etc.)

Hardship: The Board requests a statement of hardship to justify any variance application:

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done." Code of Alabama, 1975, as amended. § 11-52-80(d) (3))

\_\_\_\_\_

If the required landscape depths are meant, then this site would not meet Dairy Queen's or the City's requirements for parking spaces.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

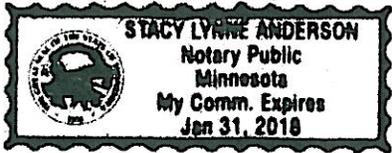
I certify that I am the property owner, or authorized agent, and attest that all facts are true and correct. I do hereby certify that the property owner list attached to this application was obtained from the Autauga County Revenue Office, (Elmore County if applicable), and is a complete list of all real property owners adjacent to the parcel submitted for consideration. I also attest that I have read and understand what a hardship is according to the Code of Alabama, 1975, as amended.

Brian Peterson [Signature] 10-7-15  
 Printed Name Signature Date

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Brian Peterson, whose name is signed to the forgoing petition, and who is known to me, acknowledged same before me on this the 7<sup>th</sup> day of October, 2015.

[Signature]  
Notary Public

My commission expires 1-31-18

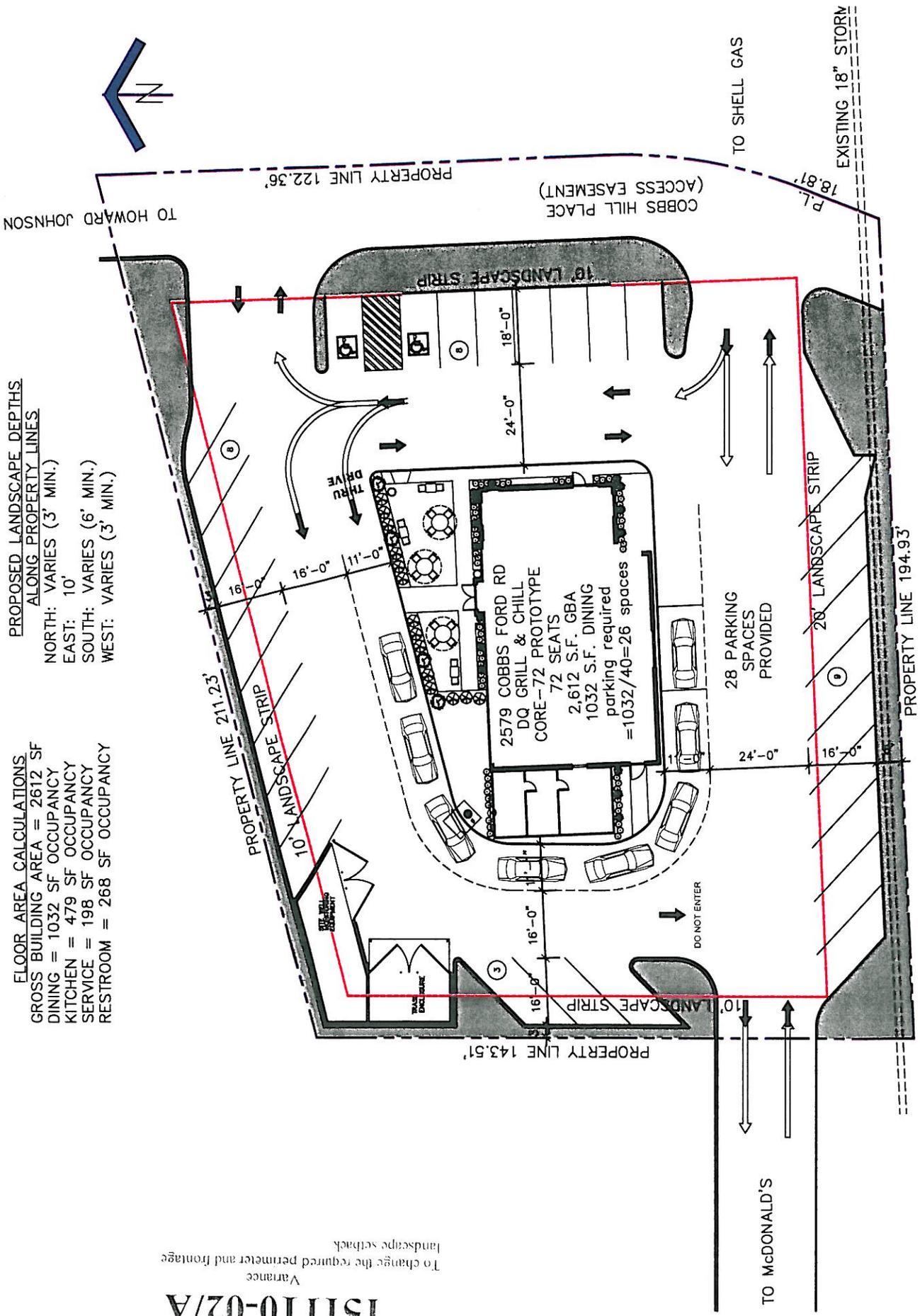


151110-02/A

Variance  
To change the required perimeter and frontage  
landscape setback

**FLOOR AREA CALCULATIONS**  
 GROSS BUILDING AREA = 2612 SF  
 DINING = 1032 SF OCCUPANCY  
 KITCHEN = 479 SF OCCUPANCY  
 SERVICE = 198 SF OCCUPANCY  
 RESTROOM = 268 SF OCCUPANCY

**PROPOSED LANDSCAPE DEPTHS  
 ALONG PROPERTY LINES**  
 NORTH: VARIES (3' MIN.)  
 EAST: 10'  
 SOUTH: VARIES (6' MIN.)  
 WEST: VARIES (3' MIN.)



EXISTING 18" STORM

EXISTING SANITARY SEWER

TO McDONALD'S

TO SHELL GAS

PROPERTY LINE 143.51'

PROPERTY LINE 211.23'

PROPERTY LINE 194.93'

PROPERTY LINE 122.36'

COBBS HILL PLACE (ACCESS EASEMENT)

PL. 18.81'

10' LANDSCAPE STRIP

20' LANDSCAPE STRIP

10' LANDSCAPE STRIP

28 PARKING SPACES PROVIDED

24'-0"

16'-0"

11'-0"

16'-0"

18'-0"

24'-0"

10' LANDSCAPE STRIP

DRIVE THRU

DO NOT ENTER

TRAFFIC ENCLOSURE

2579 COBBS FORD RD

DQ GRILL & CHILL

CORE-72 PROTOTYPE

2,612 S.F. GBA

1032 S.F. DINING

72 SEATS

=1032/40=26 parking spaces

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**CITY OF PRATTVILLE**  
Board of Zoning Adjustment  
Planning Department Staff Report



**VARIANCE** 2579 Cobbs Ford Road  
BZA Application – 151110-02

**DATE** November 8, 2015

**PROPOSED DEVELOPMENT**

**Petitioner:** Fourteen Food

**Property Owners:** 2579 Cobbs Ford, LLC (Russell Petroleum)

**Agent:** Brian Peterson (Fourteen Foods)

**Location:** SW Corner of Cobb Hill Place and Cobbs Ford Road – existing structure (convenience store/gas station) currently vacant.

**Development Status and History**

*Previous Variance Requests/Approvals:* 121211-01 – Variance granted December 11, 2012. Request by Bill Oldacre for variance to reduce the required parking lot landscaping setback and parking space requirement. (Applicant did acquire the property and development was not built.

*Conditions of Previous Approvals:* Approved requested reductions in parking lot landscaping and required parking.

1. No foundation planting required
2. Cobbs Ford Road frontage landscaping reduced to 5' depth
3. Perimeter landscaping reduced to 2' at closest point.
4. Rear setback established at 15' (not a variance)
5. Reduction to 30 parking spaces for retail sales use.

**Property Configuration**

*Acreage:* 0.78 acres

*Zoning Classification:*

B-4, Highway Commercial

*Relevant District Standards:*

**Zoning Ordinance, Article 13, Section 145  
General Site and Off-Street Parking Area  
Landscaping Requirements.**

(a) Frontage Landscaping and Foundation Planting Requirements.

**Frontage landscaping shall require a landscaped strip with a minimum 10-foot depth along all adjacent public rights-of-way.** Frontage landscaping shall include a minimum of one (1) tree and six (6) shrubs per full forty (40) linear feet of the frontage strip; shrubs are optional in areas where a berm at least four (4) feet in height is used, Trees and shrubs shall be well distributed, though not; necessarily evenly spaced.

A lot with less than one hundred fifty (150) feet frontage and adjacent to a right-of-way shall have a frontage strip depth of ten (10) feet; **a lot with one hundred fifty (150) feet to two hundred fifty (250) feet frontage shall have a frontage strip depth of twenty (20) feet**; a lot with over 250 feet frontage shall have a frontage strip depth of thirty (30) feet...

For developments of two (2) or more acres with frontage of to two hundred fifty (250) feet or more, the frontage strip shall be bermed in order to minimize the visual impact of the off-street parking area, unless the Administrator determines that the natural topography does not require site to be bermed. The berm shall not have a slope of greater than one (1) foot of rise per three (3) feet of run, and shall not be less than four (4) feet in height at its apex. Landscaping of bermed perimeter strips shall be in accordance with all requirements as outlined in this section

(b) Perimeter landscaping requirement. Perimeter landscaping must be provided within the property lines between the off-street parking area, adjoining properties. Planting areas existing in the public rights-of-way or on adjoining property shall not count toward the required perimeter landscaping area. **Perimeter landscaping areas adjacent to adjoining properties shall be at least ten (10) feet in depth, excluding walkways, measured perpendicularly from the adjacent property to the back of curb.**

Should the parking area abut any Residential District as defined by Article 7 of the Zoning Ordinance of the City of Prattville, a higher perimeter landscaping criteria shall apply. The perimeter landscaping area along the common property line shall have a twenty (20) foot landscaped buffer area consisting of a solid unbroken visual screen, eight (8) feet high within two (2) years of planting, and in sufficient density to afford protection to the residential districts from the glare of lights, from blowing paper, dust and debris, from visual encroachment and to effectively reduce the transmission of noise. The perimeter buffer area shall be maintained in a clean and neat condition.

*Requested Variance:* Effective variance as re-stated by staff (see application for applicant statement):

1. Reduction of required depth of landscaped area on Cobbs Ford Road frontage from 20' to 6' (matching the existing interior curb line).
2. Reduction of required depth of landscaped area on north perimeter (property line) from 10' to 3'.
3. Reduction of required depth of landscaped area on west perimeter (property line) from 10' to 3'.

*Statement of Hardship:* (taken from application) "If the required landscape depths are met (sp), then the site would not meet Dairy Queen's or the City's (minimum) requirements for parking spaces."

### **PLANNING STAFF EVALUATION**

**Reviewed by:** Joel T. Duke, AICP

**Site Visits Conducted:** Several visits in October 2015

**Recommendation:** Approval.

1. Lot was platted in early 1990's prior to initial adoption of city's landscaping codes in the 1999, as a result

additional space was not allocated for required site and parking lot landscaping.

2. Relief from setback requirements is justified to permit continued use and redevelopment of the lot.
3. Similar variance was approved by the board in December 2012.
4. Overall spirit of the ordinance is maintained and amount of landscaping required is provided on site.

**Planning Staff Comments:**

State code, board rules, and best practices require the BZA to measure variance requests against several basic standards. Below is the Planning Department staff's opinion regarding the standards and this request.

1. No special conditions and circumstances exist regarding this structure which are not applicable to other lands, structures, or buildings in the same B-4 zoning district.
2. A literal interpretation of the zoning ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
3. The special conditions and circumstances do result from actions of the applicant.
4. The granting of a variance will confer a special privilege on the applicant that is denied by this ordinance to other lands, structures, or buildings in the same B-4 district;
5. The granting of a variance is in harmony with the intent and purposes of the zoning ordinance;
6. A variance will not adversely affect the surrounding property, the general neighborhood, or the community as a whole;
7. A variance will not allow the establishment of a use prohibited under the terms of the zoning ordinance in a B-4 district.

**ATTACHMENTS**

- A. Minutes (partial) of December 11, 2012 BZA Meeting

**City of Prattville Board of Zoning Adjustment  
Minutes  
December 11, 2012**

**CALL TO ORDER:**

The regular meeting of the Prattville Board of Zoning Adjustment (BZA) was called to order by Chairman Leo Jamieson at 4:02 p.m. on Tuesday, December 11, 2012.

**ROLL CALL:**

Present: Chairman Leo Jamieson, Mr. Gerald Cimis, Mr. Mac Macready, and Mrs. Jerry Schannep.  
Absent: Mr. James Miles. Also present was Commander Michael Whaley.

***Quorum Present***

Staff present: Mr. Joel Duke, City Planner and Ms. Alisa Morgan, Secretary.

Chairman Jamieson stated the governing rules for the Prattville Board of Zoning Adjustment according to the *Code of Alabama, 1975* and the procedure of the meeting.

**MINUTES:**

None

**OLD BUSINESS:**

None

**NEW BUSINESS:**

**VARIANCE**

**To the landscape and parking space requirements.**

**2579 Cobbs Ford Road**

**B-4 Zoning District (Highway Commercial)**

**Bill Oldacre, Petitioner**

Mr. Duke introduced the variance request for reduction in landscape and parking on property located at 2579 Cobbs Ford Road. He stated that the property was previously used for a service station and was in operation prior to adoption of the landscape ordinance. He stated that the petitioner was requesting to reduce the parking from the required 65 spaces to 30 spaces. He stated that landscaping plans provided no plans for foundation planting; a reducing the frontage from 25' to 5'; a variation of the perimeter reducing from 10' to 2'-6'; and requesting a 15' rear setback rather than the required 20'.

Greg Gillian of Larry Speaks and Associates, petitioner representative and Bill Oldacre, petitioner presented the variance request for 2579 Cobbs Ford Road. They stated that there would be no foundation planting; reducing the perimeter landscape from 10' to 6' between curb & access drive (Cobb Hill Place side); to 2' between curb and McDonald's lot (west side); to 3' between the dumpster and hotel site and to 5' between curb and North property line. They stated that the parking reduction request is to allow 30 spaces. They stated that an additional 3 to 4 spaces would be added once existing fuel contamination equipment was removed from the site. They also requested to allow a 15' rear yard setback. They stated that there would only be one building on the site divided into two different business uses. They stated that one use would be for a retail business and the other use for medical (dental) business. They stated that the back property would be heavily landscaped.

Chairman Jamieson opened the meeting for any public comments. There were none. The public hearing was closed.

Mr. Duke stated that the frontage green space was public right-of-way which was controlled by the state and was not part of the petitioner's property for possible landscaping.

Mr. Oldacre stated that part of the lease agreement was that both businesses require only 30 parking spaces for their use.

Chairman Jamieson stated that the size of the lot and the contamination of site posed a hardship for the property owner's use.

After no further comments, questions, or discussion, the vote was called. **The BZA voted unanimously to approve the variance request as submitted (no foundation planting; reducing the perimeter landscape from 10' to 6' between curb & access drive (Cobb Hill Place side); to 2' between curb and McDonald's lot (west side); to 3' between the dumpster and hotel site and to 5' between curb and North property line; reduce parking to allow 30 spaces; and a 15' rear setback) at 2579 Cobbs Ford Road.**

**VARIANCE**

**To allow use for heavy industrial.**

**Highway 82 East**

**FAR Zoning District (Forest, Agriculture, Recreation)**

**George P. Walthall, III, Petitioner**

Mr. Duke stated that he received an e-mail request from the petitioner to withdraw the variance request. He stated that a formal letter of the withdrawal request had been requested by the staff.

**The BZA voted unanimously to table indefinitely the variance request on property at Highway 82 East.**

**MISCELLANEOUS:**

The board discussed holding a work session in January 2013, date to be determined.

**ADJOURN:**

After no further comments, questions or discussion the meeting was adjourned at 4:53.

Respectfully submitted,



Alisa Morgan, Secretary  
Board of Zoning Adjustment

**PRATTVILLE BOARD OF ZONING ADJUSTMENT**

**PETITIONER:**        **BILL OLDACARE**  
                              **3841 GREEN HILLS VILLAGE DRIVE, SUITE 400**  
                              **NASHVILLE, TN 37215**

**REQUEST:**            **VARIANCE TO ALLOW CHANGES TO THE LANDSCAPE AND**  
                              **PARKING REQUIREMENTS.**  
                              **2579 COBBS FORD ROAD**  
                              **B-4 ZONING DISTRICT (HIGHWAY COMMERCIAL)**

**ORDER**

The above petition having been duly considered at a public hearing meeting before the Board of Zoning Adjustment of the City of Prattville, having been advertised in *The Prattville Progress*, a newspaper of general circulation in the city limits of Prattville, Alabama, and setting forth notice of the request for a variance to the Zoning Laws of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held on December 11, 2012 at the City Hall in Prattville, Alabama, and after due consideration of the party in interest, the Board of Zoning Adjustment of the City of Prattville voted to approve the variance request as submitted (no foundation planting; reducing the perimeter landscape from 10' to 6' between curb & access drive (Cobb Hill Place side); to 2' between curb and McDonald's lot (west side); to 3' between the dumpster and hotel site and to 5' between curb and North property line; reduce parking to allow 30 spaces; and a 15' rear setback) at property requested.

**IT IS THEREFORE ORDERED** the petition of Bill Oldacre, 2579 Cobbs Ford Road, Prattville, AL is hereby approved.

**DONE THIS THE 11th DAY OF December 2012.**

**BOARD OF ZONING ADJUSTMENT**

  
\_\_\_\_\_  
**LEO JAMIESON, CHAIRMAN**

  
\_\_\_\_\_  
**ALISA MORGAN, SECRETARY**

**PRATTVILLE BOARD OF ZONING ADJUSTMENT**

**PETITIONER:** MARVIN J. JR. & LEORA B. GRAY  
213 SPRUCE STREET  
PRATTVILLE, AL 36067

**REQUEST:** VARIANCE TO ADD TO AN EXISTING NON-CONFORMING  
STRUCTURE.  
213 SPRUCE STREET  
R-2 ZONING DISTRICT (SINGLE FAMILY RESIDENTIAL)

**ORDER**

The above petition having been duly considered at a public hearing meeting before the Board of Zoning Adjustment of the City of Prattville, having been advertised in *The Prattville Progress*, a newspaper of general circulation in the city limits of Prattville, Alabama, and setting forth notice of the request for a variance to the Zoning Laws of Prattville, Alabama, as set out in the aforesaid petition and giving notice that a public hearing would be held on November 10, 2015 at the City Hall in Prattville, Alabama, and after due consideration of the party in interest, the Board of Zoning Adjustment of the City of Prattville **voted to approve the variance to add to an existing non-conforming use on property located at 213 Spruce Street.**

**IT IS THEREFORE ORDERED** the petition of Marvin J. Jr. & Leora B. Gray, 213 Spruce Street, Prattville, AL is hereby approved.

**DONE THIS THE 10th DAY OF November 2015.**

**BOARD OF ZONING ADJUSTMENT**

  
\_\_\_\_\_  
LEO JAMIESON, CHAIRMAN

  
\_\_\_\_\_  
ALISA MORGAN, SECRETARY

**CITY OF PRATTVILLE BOARD OF ADJUSTMENT  
PUBLIC HEARING  
SPEAKERS SIGN-IN SHEET**

**MEETING DATE:** November 10, 2015

**PETITIONER:** Marvin J. Jr. & Leora B. Gray

**ADDRESS OF PETITION:** 213 Spruce Street

	NAME	ADDRESS
1.	_____	_____
2.	<u>Don Miller</u>	<u>213 SPRUCE ST</u>
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
11.	_____	_____
12.	_____	_____
13.	_____	_____
14.	_____	_____
15.	_____	_____
16.	_____	_____
17.	_____	_____
18.	_____	_____
19.	_____	_____
20.	_____	_____
21.	_____	_____

**CITY OF PRATTVILLE**  
 Board of Zoning Adjustment

Planning Department Staff Report



<b>DATE:</b>	10/28/15
<b>APPLICATION TYPE:</b>	Variance (151110-03)
<b>PROPERTY LOCATION or DESCRIPTION:</b>	213 Spruce Street
<b>PETITIONER(S) AND AGENT(S):</b>	Marvin J. Jr. & Leora B. Gray
<b>ZONING DISTRICT(S)</b>	R-2 (Single Family Residential)
<b>REQUESTED ACTION:</b>	Variance to add to an existing non-conforming use.
<b>ZONING ORDINANCE REFERENCE:</b>	<p><b>Appendix A-Zoning Ordinance Section 4. Uses.</b></p> <p>Any use or structure existing at the time of enactment or of subsequent amendment to this ordinance, but not in conformity with its provisions, may be continued with the following limitations: Any use or structure which does not conform to the provisions of this ordinance, except with the written approval of the Board of Zoning Adjustment, shall not be:</p> <ul style="list-style-type: none"> <li>(a) Changed to another nonconforming use.</li> <li>(b) Re-established after discontinue [discontinuance] for one (1) year.</li> <li>(c) Rebuilt after fire or storm loss, exceeding its value, above foundation, at the time of loss.</li> </ul>

CITY OF  
PRATTVILLE, AL

213  
SPRUCE ST

Zoning: R-2

Scale: 1" = 50'



— STREETS

▭ TAX PARCEL





City Of Prattville  
Planning and Development Department  
102 W. Main Street  
Prattville, AL 36067  
(334) 361-3614 Fax (334) 361-3677  
www.prattvilleal.gov

Variance  
To add to an existing non-conforming structure

### Application Prattville Board of Zoning Adjustment

Application Type:  Use-On-Appeal  Variance  Administrative Appeal

**Applicant /Agent Information**  
Notarized letter from the property owner is required if agent is used for representation.

Name: GRAY, MARVIN J. JR & LEORA B.

Street Address: 213 Spruce Street

City: Prattville State AL Zip: 36067

Phone Number(s): \_\_\_\_\_

**Property Owner Information**  
If different than above

Name: GRAY, MARVIN J. JR & LEORA B.

Address of Property Owner: 213 Spruce Street

City: Prattville State: AL Zip: 36067

Phone Number: ( ) \_\_\_\_\_

**Property Description**

County Tax Parcel Number/Legal Description: Autauga County Tax ID 19041720000050430

Current Zoning of Property: R-2 Physical Address: 213 Spruce Street, 36067

Proposed Use of Property (generally): \_\_\_\_\_

Describe Proposed Use or Variance: VARIANCE FOR ADDITION TO A Non-CONFORMING STRUCTURE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



The following items must be attached to the application (check those items included):

- Tax record map from the Autauga County or Elmore County Tax Assessors Office
- Site sketch plan (drawn to scale) showing any property lines, required and proposed setbacks, existing and proposed structures and any additional information you believe will be helpful to the Board of Adjustment
- Application fees: Variance and Administrative Appeal - Fifty dollars (\$50), Use-on-Appeal – Two hundred fifty dollars (\$250).
- Names and address of all property owners immediately adjacent to the subject property (not required for administrative appeals). Adjacent properties include those directly across the street from the subject property.
- If person signing application is someone other than property owner, attach authorization to file application (i.e. notarized letter, real estate contract, etc.)

**Hardship:** The Board requests a statement of hardship to justify any variance application:

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done." *Code of Alabama, 1975, as amended. § 11-52-80(d) (3)*

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I certify that I am the property owner, or authorized agent, and attest that all facts are true and correct. I do hereby certify that the property owner list attached to this application was obtained from the Autauga County Revenue Office, (Elmore County if applicable), and is a complete list of all real property owners adjacent to the parcel submitted for consideration. I also attest that I have read and understand what a hardship is according to the *Code of Alabama, 1975, as amended.*

MARVIN J. GRAY  
Printed Name

  
Signature

OCT 14, 2015  
Date

I the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Marvin J. Gray, whose name is signed to the forgoing petition, and who is known to me, acknowledged same before me on this the 14<sup>th</sup> day of October, 2015.

  
Notary Public

My commission expires 11-08-2015

## Hardship Caused By Request of Zoning Variance for Lot 1, Block 4 of Deer Wood Subdivision

In making application for issuance of a building permit for modification to an existing structure on Lot 1 of Block 4 in the Deer Wood Subdivision, the permit was issued but held up. The reason given for holding the permit is that the setback distance from the existing house structure to the east property line does not meet zoning code. Remedy for this situation is procedural - approval of a zoning variance by the Board of Zoning Adjustment.

Construction of the home in question was begun in late 1984 by Autauga Land Development Corporation, and sale closed on July 16, 1985. Permits and initial plans called for entrance to the garage area from the east side of the home off of Deer Run Drive. Because of conflicting construction, the garage entrance was moved to the east side of the home and necessitated an extension of five (5) feet to the house structure to provide adequate garage space. This was a modification completed by the construction contractor without obtaining approval of a zoning variance for issues caused by the change.

Included in the closing documents retained by the owner is a Warranty of Completion of Construction For Conformity With Approved Plans and Specifications that indicates conformity to planned construction and all required approvals for the construction. At no point in the closing was nonconformity to approvals for inspections or zoning issues ever disclosed or discussed.

Now, 30+ years after closing, I am made aware of an issue comes to front that does not allow me to make a modification to my home that should be routine. The delay caused by this 30 year old oversight, blocks the completion of the planned modification to my house which negatively impacts planned holiday visits and events, effecting not only my immediate family but plans of other family and friends including those with already purchased airline tickets.

  
OCT 15, 2015

WARRANTY OF COMPLETION OF CONSTRUCTION IN SUBSTANTIAL CONFORMITY WITH APPROVED PLANS AND SPECIFICATIONS

Property Location:

FHA/VA Case No. 324-267

Purchaser(s)/Owner(s):

213 Spruce Street

Marvin Joel Gray, Jr. and

Prattville, Alabama 36067

Leora B. Gray

For good and valuable consideration, and in accordance with section 801 of the Housing Act of 1954, and Public Law 85-857 (38 U.S.C. 1805), the undersigned Warrantor hereby warrants to the Purchaser(s) or Owner(s) identified in the caption hereof, and to his (their) successors or transferees, that:

The dwelling located on the property identified in the caption hereof is constructed in substantial conformity with the plans and specifications (including any amendments hereof, or changes and variations therein) which have been approved in writing by the Federal Housing Commissioner or the Administrator of Veterans Affairs on which the Federal Housing Commissioner or the Administrator of Veterans Affairs based his valuation of the dwelling. Provided, however, That this warranty shall apply only to such instances of substantial nonconformity as to which the Purchaser(s)/Owner(s) or his (their) successors or transferees shall have given written notice to the Warrantor at any time or times within 1 year from the date of original conveyance of title to such Purchaser(s)/Owner(s) or the date of initial occupancy of the dwelling, whichever first occurs: Provided further, however, That in the event (1) the Purchaser(s)/Owner(s) acquired title to the captioned property prior to the completion of construction of the dwelling, thereon, such notice of nonconformity to the Warrantor may be given any time or times within 1 year from the date of completion or initial occupancy of such dwelling, whichever first occurs, or (2) where it has been necessary to postpone improvements such notice of nonconformity to the Warrantor as to such incomplete items may be given at any time or times within one year from the date of full completion of each of such items.

The term "dwelling" as used herein shall be deemed to include all improvements or appurtenances set forth in the plans and specifications upon which the Federal Housing Commissioner or the Administrator of Veterans Affairs has based his valuation of the property, excepting those constructed by a municipality or other governmental authority.

This warranty shall be in addition to, and not in derogation of, all other rights and privileges which such Purchaser(s)/Owner(s) may have under any other law or instrument, and shall survive the conveyance of title, delivery of possession of the property, or other final settlement made by the Purchaser(s)/Owner(s), and shall be binding on the Warrantor notwithstanding any provision to the contrary contained in the contract of purchase or other writing executed by the Purchaser(s)/Owner(s) heretofore or contemporaneously with the execution of this agreement or prior to final settlement.

IN TESTIMONY WHEREOF the Warrantor has signed and sealed this warranty this 16th day of July

AUTAUGA LAND DEVELOPMENT CORPORATION

1985.

P. O. Box 456

Prattville, Alabama 36067

(Warrantor's Address)

Tony Christopher  
Builder

BY SEAL  
Warrantor (Signature and Title)

This warranty is executed for the purpose of inducing the Federal Housing Commissioner or the Administrator of Veterans Affairs to make, to guarantee or to insure a mortgage on the captioned property, and the person signing for the Warrantor represents and certifies that he is authorized to execute the same by the Warrantor and by his signature the Warrantor is duly bound under the terms and conditions of said warranty.

WARNING

Section 1010 of Title 18, U.S.C., "Department of Housing and Urban Development and Federal Housing Administration transactions," provides: "Whoever, for the purpose of influencing in any way the action of such Department—makes, passes, utters, or publishes any statement, knowing that same to be false—shall be fined not more than \$5,000 or imprisoned not more than two years, or both." Other Federal Statutes provide severe penalties for any fraud as intentional misrepresentation made for the purpose of influencing the issuance of any guaranty or insurance or the making of any loan by the Administrator of Veterans Affairs.

NOTICE TO PURCHASER: ANY NOTICE OF NONCONFORMITY MUST BE DELIVERED TO THE WARRANTOR within the period or periods set forth above.

Receipt of this warranty is acknowledged this 16th day of July, 1985.

Marvin Joel Gray, Jr.

Leora B. Gray PURCHASER(S)/OWNER(S)

**CITY OF PRATTVILLE**  
Board of Zoning Adjustment  
Planning Department Staff Report



**VARIANCE** 213 Spruce Street  
BZA Application – 151110-03

**DATE** November 8, 2015

**PROPOSED DEVELOPMENT**

**Petitioner:** Marvin J. & Lenora B. Gray

**Property Owners:** same as petitioner

**Agent:** N/A

**Location:** 213 Spruce Street

**Development Status and History**

*Previous Variance Requests/Approvals:* No previous variances

*Conditions of Previous Approvals:* N/A

**Property Configuration**

*Acreage:* Approximately 0.41 acres (17,860 square feet)

*Zoning Classification:* R-2, Single Family Residential

*Relevant Standards:* Section 4. – Uses  
(B) Any use or structure existing at the time of enactment or of subsequent amendment to this ordinance, but not in conformity with its provisions, may be continued with the following limitations: Any use or structure which does not conform to the provisions of this ordinance, except with the written approval of the Board of Zoning Adjustment, shall not be:

- (a) Chained to another nonconforming use.
- (b) Re-established after discontinue [discontinuance] for one (1) year.

- (c) Rebuilt after fire or storm loss, exceeding its value, above foundation, at the time of loss.

Section 5. - Building lots, yards and open spaces.

In each district, each structure, hereafter erected or altered, shall be provided with the yards specified and shall be on a lot of the area and width specified in Article 7. No open space or lot required for a building or structure shall during its life be occupied by or counted as open space for another building or structure.

Exceptions to the district requirements for building lots and yards follow:

- a. Where the owner of a lot of official record at the time of adoption of this ordinance does not own sufficient adjacent land to enable him to conform to the yard and other requirements of this ordinance, one (1) building and its accessory structures may be built provided the yard space and other requirements conform as closely as possible, in the opinion of the Board of Zoning Adjustment, to the requirements of the district in which it is located; and further provided that neither side yard shall be reduced to less than five (5) feet in width.
- b. No building need be set back more than the average of the setbacks of the existing residences within one hundred (100) feet each side thereof.

Section 68 – Definitions.

*Yard, rear.* The yard extending across the entire width of the lot between the main building, including covered porches, and the rear lot line.

Section 71— R-2 Districts

Minimum Lot Size: 10,500 square feet

Maximum Lot Coverage: 45%

Yard Setbacks:

Front: 35'

Rear: 40'

Sides: 10'

*Requested Variance:* Effective variance as re-stated by staff (see application for applicant statement): Existing main structure encroaches 8' into the required 40' rear yard setback; creating a non-conforming structure. Applicant became aware of the non-conformance when apply for city permit to constructed addition to rear of house. Requested addition does not increase the encroachment into the rear year. Requesting approval of variance, as outlined in Zoning Ordinance Section 4, to permit furtherance of a non-conforming use.

*Statement of Hardship:* Attached to application

### **PLANNING STAFF EVALUATION**

**Reviewed by:** Joel T. Duke, AICP

**Site Visits Conducted:** October 10, 2015

**Recommendation:** Recommend approval – Structure has existed in current state for 30 years with no adverse impact to adjacent properties. Requested variance does not negatively impact the spirit of the ordinance.

#### **Planning Staff Comments:**

On October 6, 2015, the petitioner's contractor applied for a permit to demolish an existing deck and add a room to the rear of the structure at 213 Spruce Street. Upon inspection, the zoning administrator determined that a portion of the existing structure, built in 1985, extends 8' into the required 40' rear setback. Upon finding a non-conforming structure and failing to find record of the lot being zoned differently at construction or a previous variance, the administrator denied the requested permit based on the non-conforming use clauses found in Section 4 (B) of the city's zoning ordinance. The addition/work for which the current permit is requested is a not a part of, nor does it increase the rear yard encroachment. The applicant is requesting a variance to account for the non-conformance of the existing structure and allowance for the addition.

State code, board rules, and best practices require the BZA to measure variance requests against several basic standards. Below is the Planning Department staff's opinion regarding the standards and this request.

1. No special conditions and circumstances exist regarding this structure which are not applicable to other lands, structures, or buildings in the same R-2 zoning district.
2. A literal interpretation of the zoning ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the zoning ordinance.
3. The special conditions and circumstances do not result from actions of the applicant.
4. The granting of a variance will confer a special privilege on the applicant that is denied by the zoning ordinance to other lands, structures, or buildings in the same R-2 district;
5. The granting of a variance is in harmony with the intent and purposes of the zoning ordinance;
6. A variance will not adversely affect the surrounding property, the general neighborhood, or the community as a whole;
7. A variance will not allow the establishment of a use prohibited under the terms of the zoning ordinance in an R-2 district.

### **ATTACHMENTS**

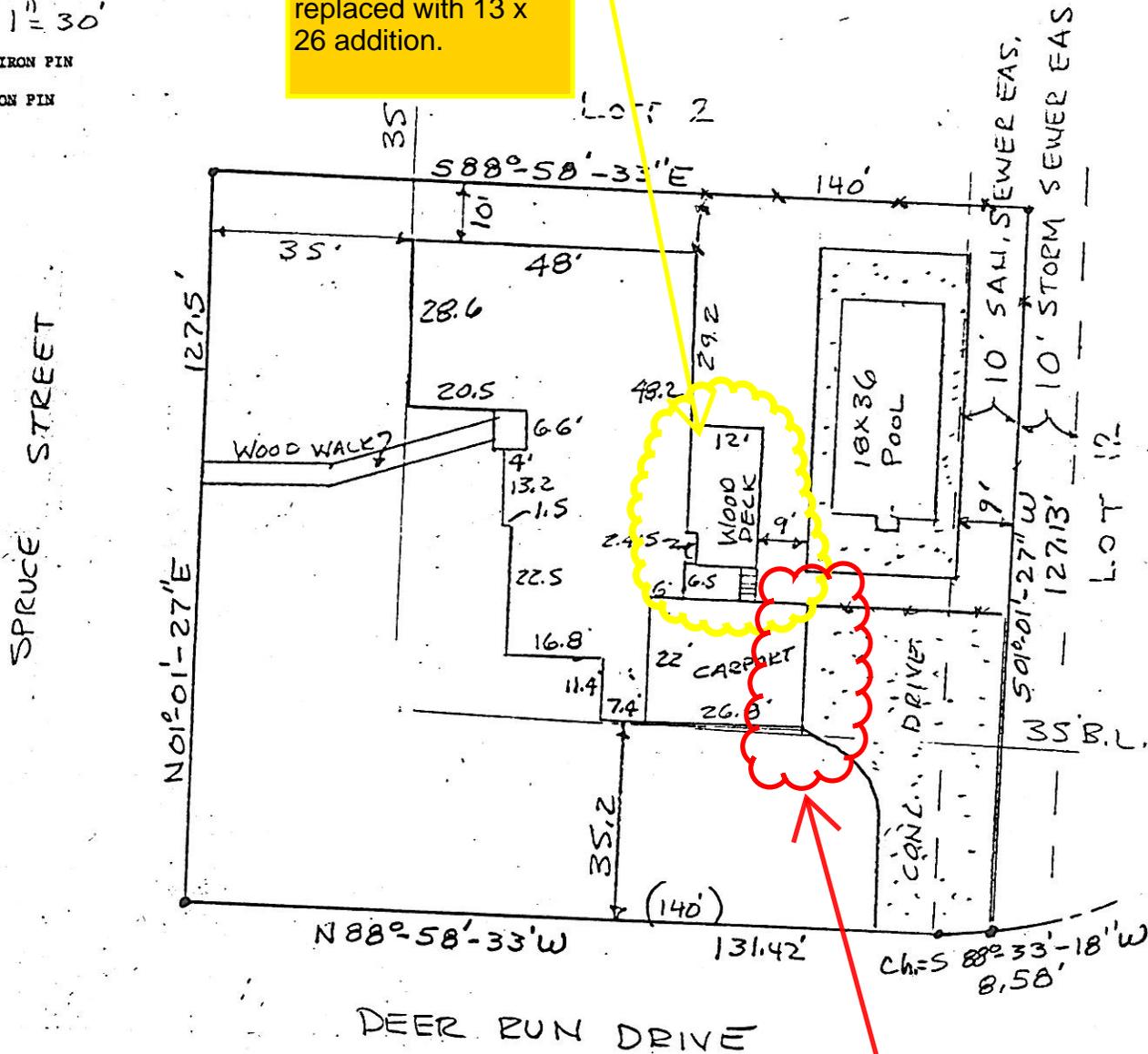
None. Please see earlier mail out.



SCALE: 1" = 30'

- FOUND IRON PIN
- SET IRON PIN
- ( ) ACTUAL

Existing Deck to be demolished and replaced with 13 x 26 addition.



Approximate 5 foot encroachment into required rear yard

STATE OF ALABAMA  
COUNTY OF Autauga

I, M.P. HAYDEN, LAND SURVEYOR, HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT MAP OR PLAT OF Lot 1 Blk. 4 Deer Wood

SAME IS RECORDED IN Map Bk. 3 AT PAGE 94 IN THE OFFICE OF THE JUDGE OF PROBATE Autauga COUNTY, ALABAMA; THAT ALL PARTS OF THIS SURVEY AND DRAWING HAVE BEEN COMPLETED IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF ALABAMA. UNLESS OTHERWISE SHOWN, THE BUILDINGS NOW ERECTED ON SAID PROPERTY ARE WITHIN THE BOUNDARIES OF SAME; THERE ARE NO ENCROACHMENTS BY BUILDINGS ON THE ADJOINING PROPERTY; THERE ARE NO RIGHTS-OF-WAYS, EASEMENTS, OR JOINT DRIVEWAYS OVER OR ACROSS SAID LAND VISIBLE ON THE SURFACE OF THE GROUND; THERE ARE NO ELECTRIC OR TELEPHONE WIRES (EXCLUDING WIRES WHICH SERVE THE PREMISES ONLY) OR STRUCTURES THEREFOR INCLUDING POLES, ANCHORS AND GUY WIRES OVER SAID PREMISES, AND I HAVE REVIEWED THE FEDERAL INSURANCE ADMINISTRATION FLOOD HAZARD BOUNDARY MAP AND FOUND THE DESCRIBED PROPERTY IS LOCATED IN ZONE C, AND THE CORRECT ADDRESS IS

213 Spruce St. Prattville, ALABAMA.

THIS SURVEY IS VALID FOR A PERIOD OF 180 DAYS FROM THE DATE SHOWN HEREON:

ACCORDING TO MY SURVEY THIS THE 13<sup>th</sup> DAY OF March, 1992

ALABAMA LAND SURVEYING, INC.  
1435 Highland Avenue  
Montgomery, Alabama 36104  
Phone: 264-0266  
Fax # 269-5493

M. P. Hayden  
M.P. HAYDEN  
Alabama Registration No. 12692