#### **BOARD OF ZONING ADJUSTMENT**

#### **AGENDA**

MAY 21, 2020

6:00 P.M.

SPECIAL NOTICE: Pursuant to "Stay at Home" orders from the Governor of the State of Alabama due to COVID-19 Pandemic, the Board of Zoning Adjustment meeting of May 21, 2020 will be video-conferenced and teleconferenced. Anyone may participate via phone/computer. Participation via videoconferencing through Zoom.com may be viewed by clicking the following link: https:// us04web.zoom.us/ j/7970217974 To attend via teleconference, please dial 312.626.6799 and enter the meeting ID of 797 021 7974

Roll Call.

Approval of Minutes: April 16, 2020.

(1) **BZA-0520-09** HD Holdings, LLC is requesting a **Rear Setback Variance** for the

property located at 3109 & 3113 Blue Lake Drive. The purpose of this request is to reduce the rear setback to 20' in lieu of the required 30' to accommodate required parking. The property is

owned HD Holdings, LLC and is zoned Vestavia Hills O-1.

David Harris is requesting a Rear Setback Variance for the (2) BZA-0520-10 property located at 1507 Jacobs Circle. The purpose of this request is to reduce the rear setback to 9' in lieu of the required 20' to rebuild a deck. The property is owned by David Harris and is zoned Vestavia Hills R-9.

Time of Adjournment.

#### **BOARD OF ZONING ADJUSTMENT**

#### **MINUTES**

#### **April 16, 2020**

The Board of Zoning Adjustment of the City of Vestavia Hills met in regular session on this date at 6:00 PM, following publication and posting pursuant to Alabama law. Due to the COVID-19 pandemic, in coordination with a Proclamation from Governor Ivey and pursuant to orders from the Jefferson County Health Department Official requiring social distancing along with limits of attendees, this meeting was held with a portion of the Board of Zoning Adjustment digitally attending the meeting via video conference call. Staff and general public/audience members also were invited to attend the conference call following publication pursuant to Alabama law. Chairman Rice called the meeting to order and the Planner called the roll with the following:

**MEMBERS PRESENT:** Rick Rice, Chairman

Loring Jones, III

Jim Griffo
George Ponder
Tony Renta, Alt
Robert Gower
Donald Holley Alt

MEMBERS ABSENT: None

**OTHER OFFICIALS PRESENT:** Jack Wakefield, Planner/GIS

Rebecca Leavings, City Clerk

### APPROVAL OF MINUTES

The minutes of March 19, 2020 were presented for approval.

**MOTION** Motion to dispense with the reading of the minutes of March 19, 2020 was made by Mr. Jones and 2<sup>nd</sup> was by Mr. Gower. Motion as carried on a

voice vote as follows:

Mr. Griffo - yes Mr. Jones - yes Mr. Ponder - yes Mr. Rice - yes

Mr. Renta – yes Mr. Holley - yes Motion carried.

#### **VARIANCE FOR LOCATION OF A FENCE**

**BZA-0420-06** 

Anna C. Cook is requesting a **Variance for the Location of a Fence** for the property located at **528 Eastwood Place**. The purpose of this request is to allow for the construction of a fence in the front setback. The property is owned Anna C. Cook and is zoned Vestavia Hills R-2.

Mr. Wakefield described the area where the property is located and read the review which included the purpose of the request, comprehensive plan and staff review.

Anna Cook stated that her hardship is a corner and the fence is needed for privacy.

Mr. Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

**MOTION** Motion to approve a variance for the location of a fence in the front setback for the property located at 2528 Eastwood Place, was made by Mr. Jones and 2nd was by Mr. Griffo. Motion was carried on a roll call vote as follows:

Mr. Griffo - yes
Mr. Ponder - yes
Mr. Renta - yes
Mr. Holley - yes
Mr. Gower - yes
Mr. Gower - yes

Mr. Holley - yes Motion carried.

#### FRONT & REAR SETBACK VARIANCE

**BZA-0420-07** 

Lee Higginbotham is requesting a **Front & Rear Setback Variance** for the property located at **1016 Southridge Drive**. The purpose of this request is to reduce the front setback to 30' in lieu of the required 50' & to reduce the rear setback to 20' in lieu of the required 30' to build a garage. The property is owned by Lee Higginbotham and is zoned Vestavia Hills R-3.

Mr. Wakefield described the area where the property is located and read the review which included the purpose of the request, comprehensive plan and staff review.

Lee Higginbotham stated that they want to build a detached garage, and that his hardship is his corner lot and the easement that runs through the property.

Mr. Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

**MOTION** Motion to approve an 20' front setback variance to reduce the setback to 30' in lieu of the required 50' & a 10' rear setback variance to reduce the setback to 20' in lieu of the required 30' for the property located at 1016 Southridge Drive, was made by Mr. Jones and 2nd was by Mr. Griffo. Motion was carried on a roll call vote as follows:

Mr. Griffo - yes
Mr. Ponder - yes
Mr. Renta - yes
Mr. Holley - yes
Motion carried.

Mr. Jones - yes
Mr. Rice - yes
Mr. Gower - yes

#### **SIDE SETBACK VARIANCE**

**BZA-0420-08** 

Carlton Smith is requesting a **Side Setback Variance** for the property located at **1236 Branchwater Lane.** The purpose of this request is to reduce the side setback to 14' in lieu of the required 17' to build a laundry room addition. The property is owned by Carlton Smith and is zoned Vestavia Hills R-2.

.

Mr. Wakefield described the area where the property is located and read the review which included the purpose of the request, comprehensive plan and staff review.

Carlton Smith stated that the topography of the land and the sewer lines create a hardship.

Mr. Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

There being no one else in the public that wanted to speak, Mr. Rice closed the public hearing and opened the floor for a motion.

**MOTION** Motion to approve a 3' side setback variance to reduce the setback to 14' in lieu of the required 17' for the property located at 1236 Branchwater Lane, was made by Mr. Jones and 2nd was by Mr. Ponder. Motion was carried on a roll call vote as follows:

Mr. Griffo - yes Mr. Jones - yes Mr. Ponder - yes Mr. Rice - yes

### **BZA Minutes**

Page | 4

Mr. Renta – yes Mr. Holley - yes Motion carried.

At 6:17 PM, Mr. Rice made a motion to adjourn. The meeting adjourned at 6:17 PM.

Jack Wakefield, Planner/GIS

# SYNOPSIS AND STAFF RECOMMENDATION CONCERNING APPLICATION BEFORE THE BOARD OF ZONING ADJUSTMENT

Date: MAY 21, 2020

• <u>CASE</u>: BZA-0520-09

• **REQUESTED ACTION:** 10' rear setback variance to reduce the setback to 20' in lieu of the required 30'.

• ADDRESS/LOCATION: 3109 & 3113 Blue Lake Drive

• **APPLICANT/OWNER:** HD Holding, LLC

• **REPRESENTING AGENT:** Russ Doyle, Brooks Harris, & Chad Bryant

GENERAL DISCUSSION: Applicant is seeking a rear setback variance to accommodate required parking for this office building. The applicant contends there is a hardship because of the topography of the lot and the narrowness of the lot. There is a creek bank that extends across the rear of the property, limiting the amount of buildable space. Also, there are various regulations that sets out how close the development can be towards the creek. The building would be slightly pushed back (far enough away from the creek) to allow for those additional parking spaces. City Engineer Christopher Brady has been in discussion with the applicant about the distance the building will be in relation to the creek. Based on these discussions, Mr. Brady has no issues with this request. The applicant's property is zoned Vestavia Hills O-1.

#### • STAFF REVIEW AND RECOMMENDATION:

1. City Planner Review: No problems noted.

**2. City Engineer Review:** No problems noted.

3. City Fire Marshal Review: No problems noted.

4. **Building Safety Review:** No problems noted.

# **Z0520-09**//**2800274002005&006 3109 & 3113 Blue Lake Drive**Rear setback for parking spaces HD Holdings O-1

BZA Application Revised April 1, 2019 Page 3

## CITY OF VESTAVIA HILLS BOARD OF ZONING ADJUSTMENT APPLICATION

The owner of the property understands that the Board of Zoning Adjustment only has jurisdiction to grant variances from the Vestavia Hills Zoning Code in cases of undue hardship only. Variances cannot be considered or granted on any kind of private covenants as covenants are restrictions between property owners.

EXAMPLE: If you are asking for a variance from a building setback line and the building setback line is recorded on the plat and matches the Zoning Code, then the Board of Zoning Adjustment would only hear the case based on the Zoning Code requirements, not what is on the recorded plat. The recorded plat is a covenant between property owners of the subdivision. You must have signatures of every property owner on the recorded plat map to change the covenant portion of the setback. The letter of signatures approving the amendment of the covenants must be filed with the Office of the Probate Court. Again, the BZA can only grant a variance based on the Zoning Code and that is the only portion of the building setback changes that the BZA can vote upon. Once a waiver is filed with the Office of the Probate, please include a copy of the recorded amendment with the application to the Office of the City Clerk.

Please note: Only completed applications will be accepted by this office. The applicant is responsible for the Application Fee as well as all postage fees incurred by this request.

APPLICANT INFORMATION:			
Owner of P Name:	operty (This Section Must Be Completed) HD Holdings, LLC		
Address:	3111 Timberlake Rd - Vest	avia, AL 35243	262
	3111 Timberlake Rd - Vest	avia, AL 35243	-T)
Phone #:	205-965-5823	Other #:	<del></del>
E-Mail:	russ@harrisdoyle.com		
Billing/Resp	oonsible Party		=
Name:	HD Holdings, LLC		ω - <b>-α</b>
Address:	3111 Timberlake Rd - Vestavia, AL 35243		
Phone #:	205-965-5823	Other #:	
E-Mail:	russ@harrisdoyle.com		

Representing Attorney/Other Agent					
Name:		ie:	Russ Doyle, Brooks Harris, or Chad Bryant		
	Address:		3111 Timberlake Rd - Vestavia, AL 35243		
			3111 Timberlake Rd - Vestavia, AL 35243	_	
	Phor	ne #:	205-965-5823 Other #:		
	E-M	ail:	russ@harrisdoyle.com	_	
*This section must		s section	nust be completed in order for a representative to represent the owner.	ist be completed in order for a representative to represent the owner.	
II.	DES	CRIPTI	ON OF SUBJECT PROPERTY:	_	
	LOC	ATION:	3109 & 3113 Blue lake Drive		
Street Address Topfield Subdivision, Lots 27 & 28					
			Subdivision name, Lot #, Block #, etc.		
III.	REA	SONS F	OR REQUEST (PLEASE FILL IN APPLICABLE STATEMENTS):		
	1.		A request to vary:		
			' variance to reduce the lot width to' in lieu of the require	d	
		of the	square foot variance to reduce the lot area to square feet in lie equired square feet.	u	
		10'	' front/side/rear (circle one) setback variance to reduce the setback t' in lieu of the required 30'.	o	
			' front/side/rear (circle one) setback variance to reduce the setback t in lieu of the required'.	0	
			' front/side/rear (circle one) setback variance to reduce the setback t in lieu of the required'.	o	
	2.		A decision of the Zoning Official which the applicant believes to b contrary to the meaning of the Zoning Ordinance.	e	
	3.		An application to establish a use which must be approved by the Board of Zoning Adjustment (See Section).	f	
	4 5.		A request for extension of non-conforming use (See Section).  Variance for location of a fence.		
	6.		Sign Code Variance (See Section).		
	7.		Other - Explain (See Section).		
			<b>Z0520-09</b> // <b>2800274002005&amp;006 3109 &amp; 3113 Blue Lake Drive</b> Rear setback for parking spaces HD Holdings O-1		

## Z0520-09//2800274002005&006 3109 & 3113 Blue Lake Drive

Rear setback for parking spaces
HD Holdings
O-1

BZA Application Revised April 1, 2019 Page 5

#### IV. ZONING

Vestavia Hills Zoning for the subject property is O-1

#### V. HARDSHIP

Describe those things which you feel justify the action requested. An Undue Hardship is required in order to seek a variance. List, when necessary, the specific sections of the City Code(s) which have a bearing on your request. (Use additional space on separate page if necessary).

The lot shapes are wide, but shallow. The current 40' front and 30' rear setbacks are a hardship due to the shape of the lots.

#### VI. PROJECT:

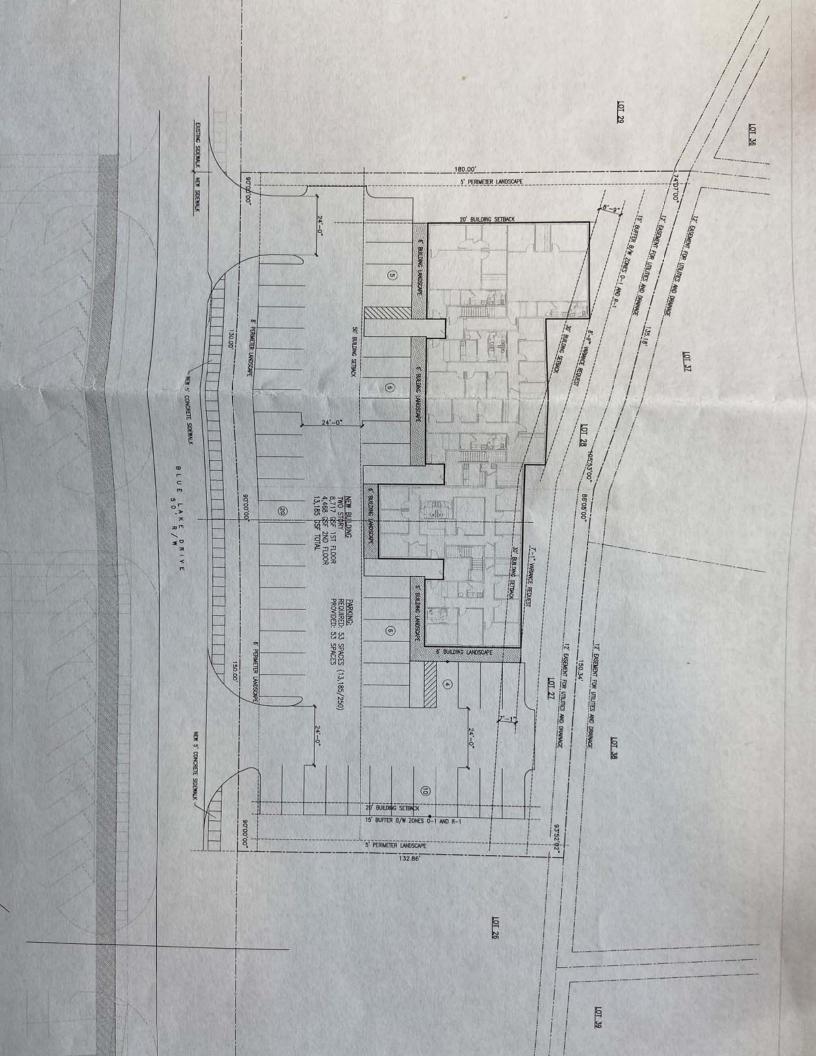
Describe the scope of the project and/or the reason for requesting this variance.

If the variance is granted, this would allow us to get another row of much needed parking spaces and alleviate the occupants from having to park in the grass and on the street. The is wooded green space behind this building and what will be a future office building on the lot behind it.

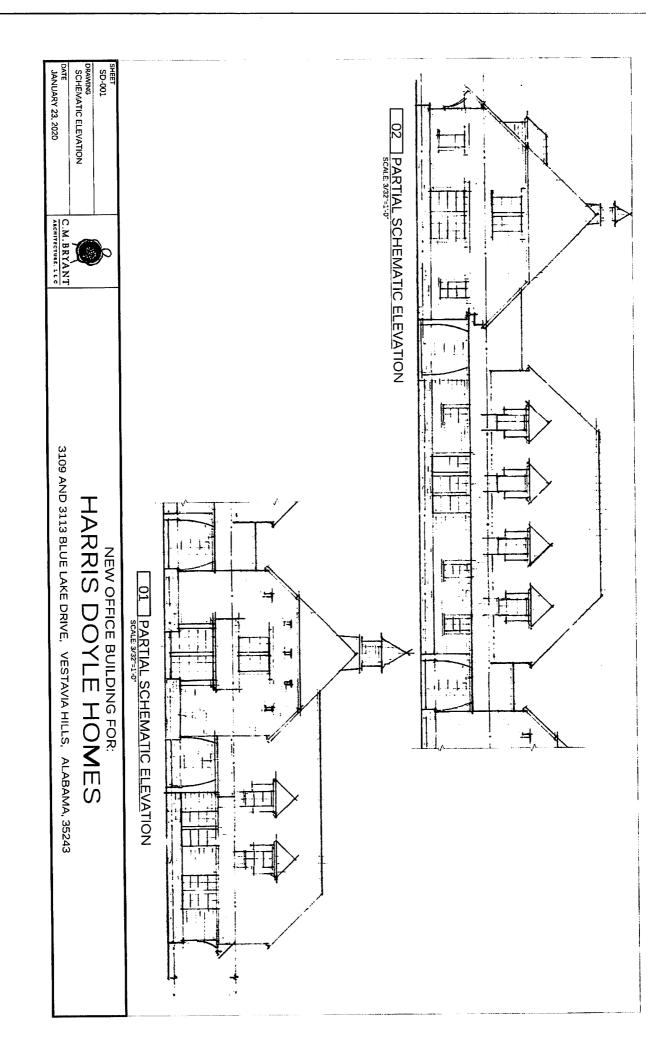
#### VII. OWNER AFFIDAVIT:

I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing. I, also, understand that I am asking for a variance based on the Zoning Code only and not on any or all covenants that are on the subject property. \*Note, this application must be signed by the owner of the property before a notary. The original application shall be submitted, no copies shall be accepted\*

musi be signed by the owner of the	e property before a notary. The origina
application shall be submitted, no cop	ies shall be accepted*
2/17/2020	9
Owner Signature/Date	Representing Agent (if any)/date
Given under my hand and seal this day of February, 20_270.	
Notary Public  My commission expires 20	ASHLEY ANN MILLER  Notary Public  Alabama State at Large
day of January, 2022.	







# SYNOPSIS AND STAFF RECOMMENDATION CONCERNING APPLICATION BEFORE THE BOARD OF ZONING ADJUSTMENT

Date: MAY 21, 2020

• <u>CASE</u>: BZA-0520-10

• **REQUESTED ACTION:** 11' rear setback variance to reduce the setback to 9' in lieu of the required 20'.

• ADDRESS/LOCATION: 1507 Jacobs Circle

• **APPLICANT/OWNER:** David J. Harris

• **REPRESENTING AGENT:** None

• **GENERAL DISCUSSION:** Applicant is seeking a rear setback variance to rebuild his back deck. The deck will follow the same footprint as the original. The original deck was built inside the recorded setback, so the applicant must receive this variance to bring the original structure and the new one into compliance. Furthermore, the applicant's new deck is near completion at the moment. The contractor he hired to complete the work did not follow the City procedures to conduct the work, and has not been heard from since a stop work order was put in place. This applicant has drafted a covenants waiver and recorded the signatures with the Jefferson County Probate Office. The applicant's property is zoned Vestavia Hills R-9.

#### STAFF REVIEW AND RECOMMENDATION:

1. City Planner Review: No problems noted.

2. City Engineer Review: No problems noted.

3. City Fire Marshal Review: No problems noted.

4. **Building Safety Review:** No problems noted.

BZA Application Revised April 1, 2019 Page 3

# BOARD OF ZONING ADJUSTMENT APPLICATION

The owner of the property understands that the Board of Zoning Adjustment only has jurisdiction to grant variances from the Vestavia Hills Zoning Code in cases of undue hardship only. Variances cannot be considered or granted on any kind of private covenants as covenants are restrictions between property owners.

EXAMPLE: If you are asking for a variance from a building setback line and the building setback line is recorded on the plat and matches the Zoning Code, then the Board of Zoning Adjustment would only hear the case based on the Zoning Code requirements, not what is on the recorded plat. The recorded plat is a covenant between property owners of the subdivision. You must have signatures of every property owner on the recorded plat map to change the covenant portion of the setback. The letter of signatures approving the amendment of the covenants must be filed with the Office of the Probate Court. Again, the BZA can only grant a variance based on the Zoning Code and that is the only portion of the building setback changes that the BZA can vote upon. Once a waiver is filed with the Office of the Probate, please include a copy of the recorded amendment with the application to the Office of the City Clerk.

Please note: Only completed applications will be accepted by this office. The applicant is responsible for the Application Fee as well as all postage fees incurred by this request.

I.	APPLICANT INFORMATION: Owner of Property (This Section Must Be Completed)		
	Name:	DAVID J HARRIS	
	Address:	VESTAVIA, AL 35216-7100	
	Phone #:	205-602-8080 Other#:	
	E-Mail:	dav-dj harris 2@ icloud. com	
	Billing/Responsible Party		
	Name:	DAVID J HARRIS	
	Address:	1507 JACOBS CIRCLE  VESTAVIA, AL 35216-7100	
	Phone #:	Other #:	
	E-Mail:		

	Representing Attorney/Other Agent
	Name: None
	Address:
	Phone #: Other #:
	E-Mail:
	*This section must be completed in order for a representative to represent the owner.
П.	DESCRIPTION OF SUBJECT PROPERTY:
	LOCATION: 1507 Freebs Circle
	LOCATION: 1507 Freehs Circle  Street Address  SEVIOR CITIZENS Estatu Get #9  Subdivision name, Lot #, Block #, etc.
Ш.	REASONS FOR REQUEST (PLEASE FILL IN APPLICABLE STATEMENTS):
	1. A request to vary:
	, variance to reduce the lot width to, in lieu of the required
	square foot variance to reduce the lot area to square feet in lieu of the required square feet.
	' front/side/(ear) (circle one) setback variance to reduce the setback to '' in lieu of the required'
	' front/side/rear (circle one) setback variance to reduce the setback to in lieu of the required'
	' front/side/rear (circle one) setback variance to reduce the setback to ' in lieu of the required'
	2. A decision of the Zoning Official which the applicant believes to be contrary to the meaning of the Zoning Ordinance.
	3. An application to establish a use which must be approved by the Board of
	Zoning Adjustment (See Section).  4 A request for extension of non-conforming use (See Section).
	5. Variance for location of a fence.
	6. Sign Code Variance (See Section). 7. Other - Explain (See Section).
	7. <b>(</b> ) Suis. Ziipimii (200 000000

#### ZONING IV.

Vestavia Hills Zoning for the subject property is R-9

#### HARDSHIP

Describe those things which you feel justify the action requested. An Undue Hardship is required in order to seek a variance. List, when necessary, the specific sections of the City Code(s) which have a bearing on your request. (Use additional space on separate page if necessary).

SEE Attached

#### VI. PROJECT:

Describe the scope of the project and/or the reason for requesting this variance.

Replaced 23 yra old dack

#### OWNER AFFIDAVIT: VII.

I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing. understand that I am asking for a variance based on the Zoning Code only and not on any or all covenants that are on the subject property. \*Note, this application must be signed by the owner of the property before a notary. The original application shall be submitted, no copies shall be accepted\*

Given under my hand and seal this <u>21</u> day of <u>April</u>, 20 20

Frances V. Jahle
Notary Public My commission expires 29

Representing Agent (if any)/date

DAVID J HARRIS 1507 JACOBS CIRCLE VESTAVIA, AL 35216 04/20/20

Re: Sect V. Hardship

We recently contracted with Charles Shields dba Shields Home Improvement to remove our old deck and <u>replace</u> it with a new deck with a gable roof rather than a flat roof. The deck built in the same "footprint" as the 22 year old structure. It was to be the same size — not larger nor smaller. Mr Shields said he would handle everything and would keep me advised. I specifically asked Mr Shields had he ever dealt with Vestavia in his building career to which he replied, "Yes, I have built several porch-decks in Vestavia and the City has always liked my work. My contract included fees for Vestavia.

The gable roof called for removing the sofits from my home. Mr Shields removed the sofits but did not cover the roof and then came the heavy rains and wind on Apr 12<sup>th</sup>. Heavy rain damage has resulted in severe damage to two baths and one bedroom. My homeowners policy has a \$1,000 deductible. Mr Shields left the job on April 08 at about 05:00pm and did not return until Apr 16 at about 03:00pm. His room-mate told me Mr Shields had been on a drug "binge". I terminated him on 16<sup>th</sup> and agreed to pay his employees to finish the job at a cost of \$5,000 to me. I asked Mr Shields to turn my storm damage in to his insurance company and he told me he did not have insurance. Mr Shields became quite angry and made threats both to his crew and me.

The deck already had power, gas and electricity before the replacement started.

I had no idea the job was in violation until this morning when your inspector came to my home. The job was complete except for installing a screen door and finish installing the screen for the deck. Had he shown up 2 hours later the job would have been complete.

I imagine Mr Shields, in his anger, decided to call Vestavia, knowing he had not applied for the necessary paperwork.

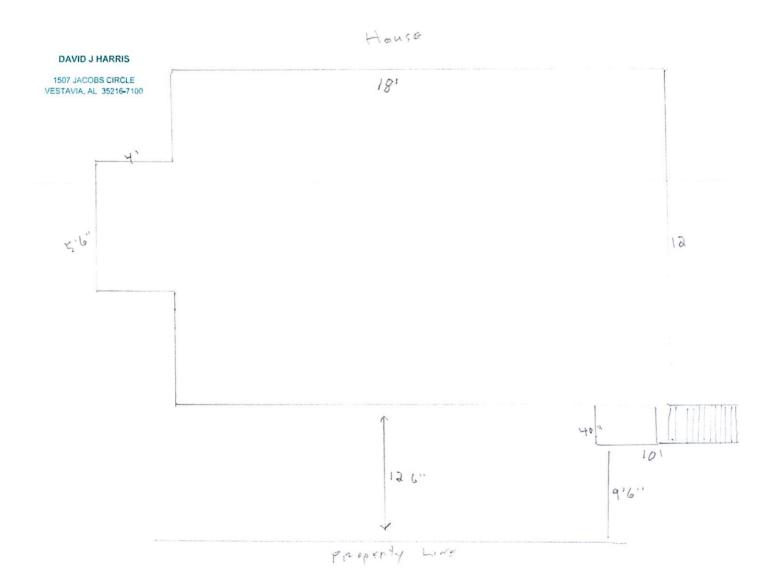
**Z05820-10//2900362002069.000 1507 Jacobs Circle**Rear setback for a deck
David Harris R-9

Order No. 19004 B

Community Panel No.:

Laurence D. Weygand, Reg. P.E. & L.S. #10373 169 Oxmoor Road, Birmingham, AL 35209 PH: 942-0086 FAX: 942-0087

# **Z05820-10//2900362002069.000 1507 Jacobs Circle**Rear setback for a deck David Harris R-9



County Division Code: AL039 Inst. # 2020039585 Pages: 1 of 2 I certify this instrument filed on: 4/24/2020 1:16 PM

Doc: REST Alan L.King, Judge of Probate Jefferson County, AL Rec: \$19.00

Clerk: KKBESS

1507 Jacobs Circle
Rear Variance for Existing Deck
David J & Linda K Harris

STATE OF ALABAMA
JEFFERSON COUNTY

#### **NULLIFACATION OF RESTRICTION**

The undersigned majority of the owners of lots in the survey recorded as: Senior Citizen's Estates agree to offer relief from the back building setback due to hardships.

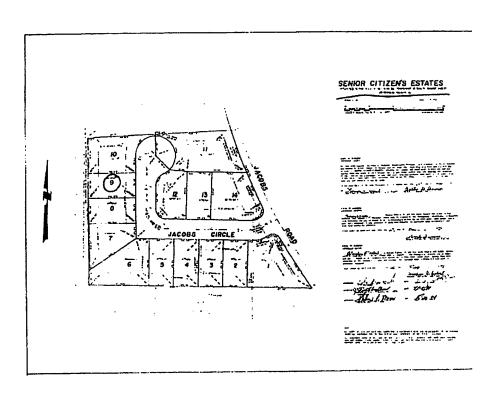
#### David J Harris Lot 9

Owner Rena Henson	Lot no. 10 Date: 04-20-20
Owner Elizabeth Carter	Lot no. 8 Date: 4-21-20
Owner Deau Stynsol	Lot no. 7 Date: Hospital
Owner Jan San	Lot no. 6 Date: 4/20/20
Owner	Lot no. 5 Date: 4 20/70
Owner Francis W. Lable	Lot no. 4 Date: 4-20-2020
Owner	Lot no. 3 Date: VACRWT
Owner A Common C	Lot no. 11 Date: 4/20/2020
Owner MAN THE	Lot no. 12 Date: 04 10 10 10
Owner Day	Lot no: 13 Date: DUS TW 2015
Owner Colnshungt	Lot no: 14 Date: 04/22/2020
Owner Allala Ilalou	Lot no: 2 Date: 14, H, H20
owner Jana & But	Lot no: 1 Date: 4 -21-2020

**Z05820-10//2900362002069.000 1507 Jacobs Circle** Rear setback for a deck

David Harris

R-9



Subject:

Date: April 21, 2020 at 10:31 AM

To: David Harris davidjharris2@icloud.com





Sent from my iPhone

Z05820-10//2900362002069.000 1507 Jacobs Circle Rear setback for a deck David Harris R-9

Subject:

Date: April 21, 2020 at 11:11 AM

To: David Harris davidjharris2@icloud.com





Sent from my iPhone

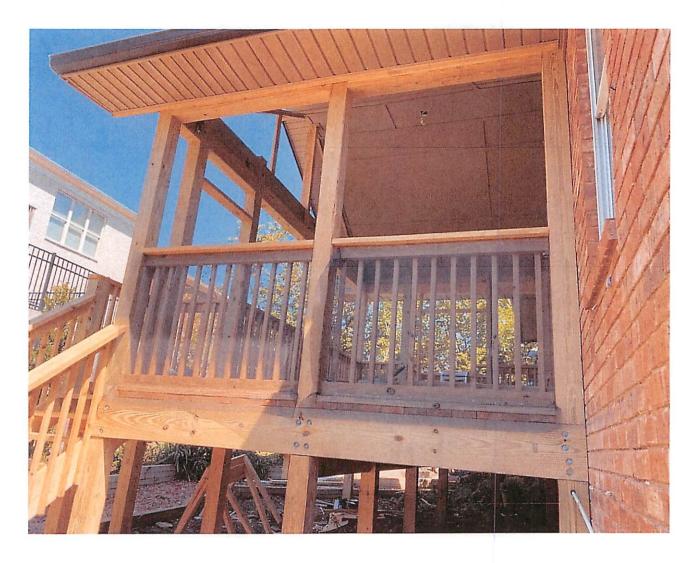
Z05820-10//2900362002069.000 1507 Jacobs Circle Rear setback for a deck David Harris R-9

Subject:

Date: April 21, 2020 at 11:20 AM

To: David Harris davidjharris2@icloud.com





Sent from my iPhone

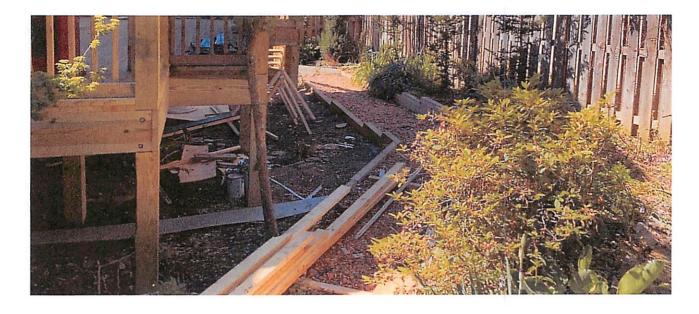
Z05820-10//2900362002069.000 1507 Jacobs Circle Rear setback for a deck R-9 David Harris

Subject:

Date: April 21, 2020 at 11:10 AM

To: David Harris davidjharris2@icloud.com





Sent from my iPhone

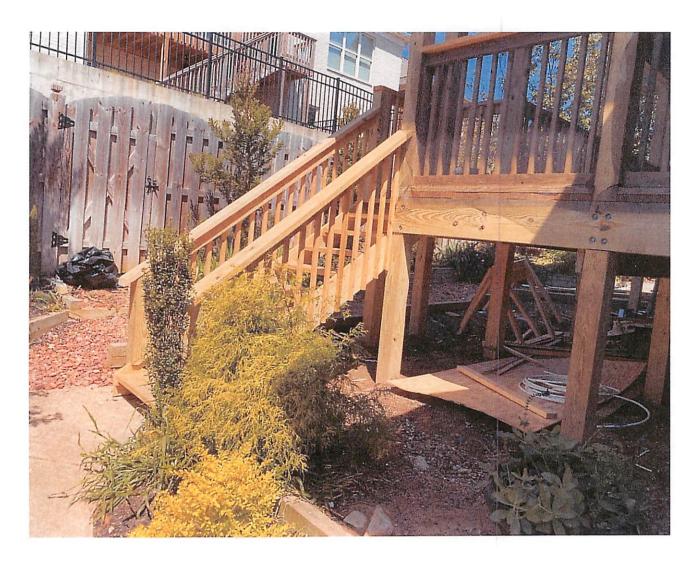
Z05820-10//2900362002069.000 1507 Jacobs Circle Rear setback for a deck David Harris R-9

Subject:

Date: April 21, 2020 at 11:19 AM

To: David Harris davidjharris2@icloud.com





Sent from my iPhone

Z05820-10//2900362002069.000 1507 Jacobs Circle Rear setback for a deck R-9 David Harris