

CITY OF VESTAVIA HILLS
BOARD OF ZONING ADJUSTMENT

AGENDA

November 18, 2021

6:00 P.M.

Roll Call.

Approval of Minutes: September 16, 2021.

- (1) BZA-1121-32** Michelle Cavender is requesting a **Variance for the Location of a Fence** for the property located 1894 Shades Crest Road. The purpose of this request is to build a security fence in the front setback. The property is owned by Michelle Cavender and is zoned Vestavia Hills R-1.

Time of Adjournment.

CITY OF VESTAVIA HILLS
BOARD OF ZONING ADJUSTMENT
MINUTES

September 16, 2021

The Board of Zoning Adjustment of the City of Vestavia Hills met in regular session on this date at 6:00 PM. The roll was called with the following:

MEMBERS PRESENT:

Rick Rice, Chairman
Robert Gower
Stephen Greer, Alt
Thomas Parchman, Alt
Loring Jones, III

MEMBERS ABSENT:

Tony Renta
Donald Holley

OTHER OFFICIALS PRESENT:

Jack Wakefield, Planner/GIS

APPROVAL OF MINUTES

The minutes of June 17, 2021, 2021 were presented for approval.

MOTION Motion to dispense with the reading of the minutes of August 19, 2021 was made by Mr. Jones and 2nd was by Mr. Gower. Motion as carried on a voice vote as follows:

Mr. Gower – yes Mr. Parchman – yes
Mr. Greer – yes Mr. Jones – yes
Chairman Rice – yes
Motion carried

VARIANCE FOR LOCATION OF A FENCE & FRONT SETBACK VARIANCE

- (1) **BZA-0921-26** Gregory Appling is requesting a **Variance for the Location of a Fence & a Front Setback Variance** for the property located at **900 Granbury Road**. The purpose of this request is to build a fence in the front setback & to reduce the front setback to 16’ in lieu of the required 35’. The property is owned by Gregory Appling 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.

Gregory Appling was present for the request and stated his hardship was a corner lot.

Chairman 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 & a 19’ front setback variance to reduce the setback to 16’ in lieu of the required 35’, for the property located at 900 Granbury Road was made by Mr. Jones and 2nd was by Mr. Gower. Motion was carried on a roll call vote as follows:

Mr. Gower – yes Mr. Parchman – yes
Mr. Greer – yes Mr. Jones – yes
Chairman Rice – yes
Motion carried

FRONT & REAR SETBACK VARIANCE

- (2) **BZA-0921-27** Matt Lemen is requesting a **Front and Rear Setback Variance** for the property located at **312 Sunset Drive**. The purpose of this request is to reduce the front setback to 25’ in lieu of the required 27’ & to reduce the rear setback to 20’ in lieu of the required 22’, to build multiple additions. The property is owned by Matt Lemen and is zoned Vestavia Hills R-1.

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.

Mack Braden, 5305 12th Ave S, was present for the case and stated this is an updated request based on discrepancies from old and new survey.

Mr. Braden also stated that the hardship was a corner lot.

Chairman 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 2' front setback variance to reduce the setback to 25' in lieu of the required 27' & a 2' rear setback variance to reduce the setback to 20' in lieu of the required 22', for the property located 312 Sunset Drive was made by Mr. Jones and 2nd was by Mr. Gower. Motion was carried on a roll call vote as follows:

Mr. Gower – yes Mr. Parchman – yes
Mr. Greer – yes Mr. Jones – yes
Chairman Rice – yes
Motion carried

LOT AREA, LOT WIDTH, & SIDE SETBACK VARIANCE

- (3) **BZA-0921-28** Kadco Homes, LLC is requesting a **Lot Area Variance and Lot Width Variance & a Side Setback Variance** for the property located at **909 Chestnut Street**. The purpose of this request is to reduce the lot area and lot width of to allow for a resurvey of the lot and to include the vacated alley. Also, to reduce the side setback to 7.5' in lieu of the required 9.3' The property is owned by the Kadco Homes, LLC 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.

Jason Kessler, 2144 Mountain View Drive, was present for the case and stated the narrow lot caused a hardship. The vacated alley was never made a part of the property, though it was deeded to the property. Variances are needed to make it a buildable lot.

Mr. Jones stated that there is no hardship and that he knew the situation before he purchased it.

Chairman Rice opened the floor for a public hearing.

Dorris Rinker, 913 Chestnut Street, asked about the second lot on the property and said she did not want a house up to her fence line.

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

The Board asked if Mr. Kessler would like to postpone the case or take a vote. Mr. Kessler chose to postpone.

LANDSCAPING VARIANCE

- (4) **BZA-0921-29** Jones C, LLC is requesting a **Landscaping Variance** for the property located at **3952 Crosshaven Drive**. The purpose of this request is to waive the 5’ landscaping buffer requirement. The property is owned by the Jones C, LLC and is zoned Vestavia Hills B-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.

David Teague was present for the request and stated that the Crosshaven road construction has taken property from the site, thus reducing parking. To accommodate parking, a strip of landscaping would need to be removed. Hardship is the road project.

Chairman 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 waiving the 5’ landscaping buffer requirement, for the property located 3952 Crosshaven Drive was made by Mr. Jones and 2nd was by Mr. Greer. Motion was carried on a roll call vote as follows:

Mr. Gower – yes Mr. Parchman – yes
Mr. Greer – yes Mr. Jones – yes
Chairman Rice – yes
Motion carried

SIDE SETBACK VARIANCE

- (5) **BZA-0921-30** Amory Booher is requesting a **Side Setback Variance** for the property located at **2212 Garland Drive**. The purpose of this request is to reduce the side setback to 5’ in lieu of the required 15’, to build a yurt. The property is owned by Amory Booher 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.

Amory Booher was present for the request and stated that the hardship was the steep terrain in the rear of the lot limiting buildable area.

Mr. Booher also stated this would be a geodesic dome that could be removable.

Chairman 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 10’ side setback variance to reduce the setback to 5’ in lieu of the required 10’, for the property located 2212 Garland Drive was made by Mr. Jones and 2nd was by Mr. Gower. Motion was carried on a roll call vote as follows:

Mr. Gower – yes Mr. Parchman – yes
Mr. Greer – yes Mr. Jones – yes
Chairman Rice – yes
Motion carried

WALL SIGN VARIANCES

(6) **BZA-0921-31** RDM3, LLC is requesting a **Wall Sign Location Variance & a Wall Sign Square Footage Variance** for the property located at **3900 Crosshaven Drive**. The purpose of this request is to erect a sign on the side of the building and to allow for 90.92 square feet of wall signage in lieu of the required 84 square feet. The property is owned by the RDM3, LLC and is zoned Vestavia Hills B-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.

Meighan Ellis was present for the case and stated that the hardship is from the adjacent building limiting sight lines for signage on the street. The adjacent property is surrounded by the subject property and limits visibility to the site.

Chairman 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 wall sign square foot variance and a variance for the location of a wall sign, for the property located 3900 Crosshaven Drive was made by Mr. Jones and 2nd was by Mr. Gower. Motion was carried on a roll call vote as follows:

Mr. Gower – yes Mr. Parchman – yes
Mr. Greer – yes Mr. Jones – yes
Chairman Rice – yes
Motion carried

At 7:20 PM, Mr. Jones made a motion to adjourn. The meeting adjourned at 7:20 PM.

CITY OF VESTAVIA HILLS
SYNOPSIS AND STAFF RECOMMENDATION CONCERNING
APPLICATION BEFORE THE BOARD OF ZONING ADJUSTMENT

Date: **November 18, 2021**

- **CASE: BZA-1121-32**
- **REQUESTED ACTION:** Variance for Location of Fence in the Front Setback.
- **ADDRESS/LOCATION:** 1894 Shades Crest Road
- **APPLICANT/OWNER:** Michelle Cavender
- **REPRESENTING AGENT:** Blake Pittman
- **GENERAL DISCUSSION:** Applicant is seeking a variance for the location of a fence in the front setback. This fence is a security fence and falls under Section 4.5.7. The property meets all requirements except for the house not being the required 100' from front lot line. The applicant states that the lot is large enough, but the terrain in the rear is so steep the house had to be built closer to the road. Thus, creating a hardship. The applicant's property is zoned Vestavia Hills R-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.

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.

I. APPLICANT INFORMATION:**Owner of Property (This Section Must Be Completed)**

Name: Michelle Cavender

Address: 1894 Shades Crest Road
Vestavia Hills, AL 35216

Phone #: _____ Other #: _____

E-Mail: _____

Billing/Responsible Party

Name: Taylor Burton Company

Address: 3239 Lorna Road, Suite 108, Birmingham, AL 35216

Phone #: 205-822-7936 Other #: 205-966-8525

E-Mail: Blake@taylorburton.com

Representing Attorney/Other Agent

Name: Blake Pittman - Taylor Burton Company

Address: 3239 Lorna Road, Suite 108, Birmingham, AL 35216

Phone #: 205-822-7936 Other #: 205-966-8525

E-Mail: Blake@taylorburton.com

**This section must be completed in order for a representative to represent the owner.*

II. DESCRIPTION OF SUBJECT PROPERTY:

LOCATION: 1894 Shades Crest Road
Street Address

Subdivision name, Lot #, Block #, etc.

III. 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/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 _____ ' .
_____ ' 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 _____).

IV. ZONING

Vestavia Hills Zoning for the subject property is R1.

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).*

See Attachment

VI. PROJECT:

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

See Attachment

VII. OWNER AFFIDAVIT:

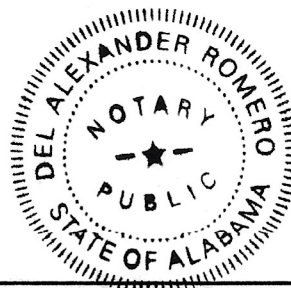
I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing. I, also, understand that I am asking for a variance based on the Zoning Code only and not on any or all covenants that are on the subject property. ***Note, 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***

Michelle Hall Cavender
Owner Signature/Date

Blake Pittman
Representing Agent (if any)/date

Given under my hand and seal
this 15th day of October, 20 21.

Del Romero
Notary Public
My commission expires 14th
day of January, 20 23.



V.) Hardship

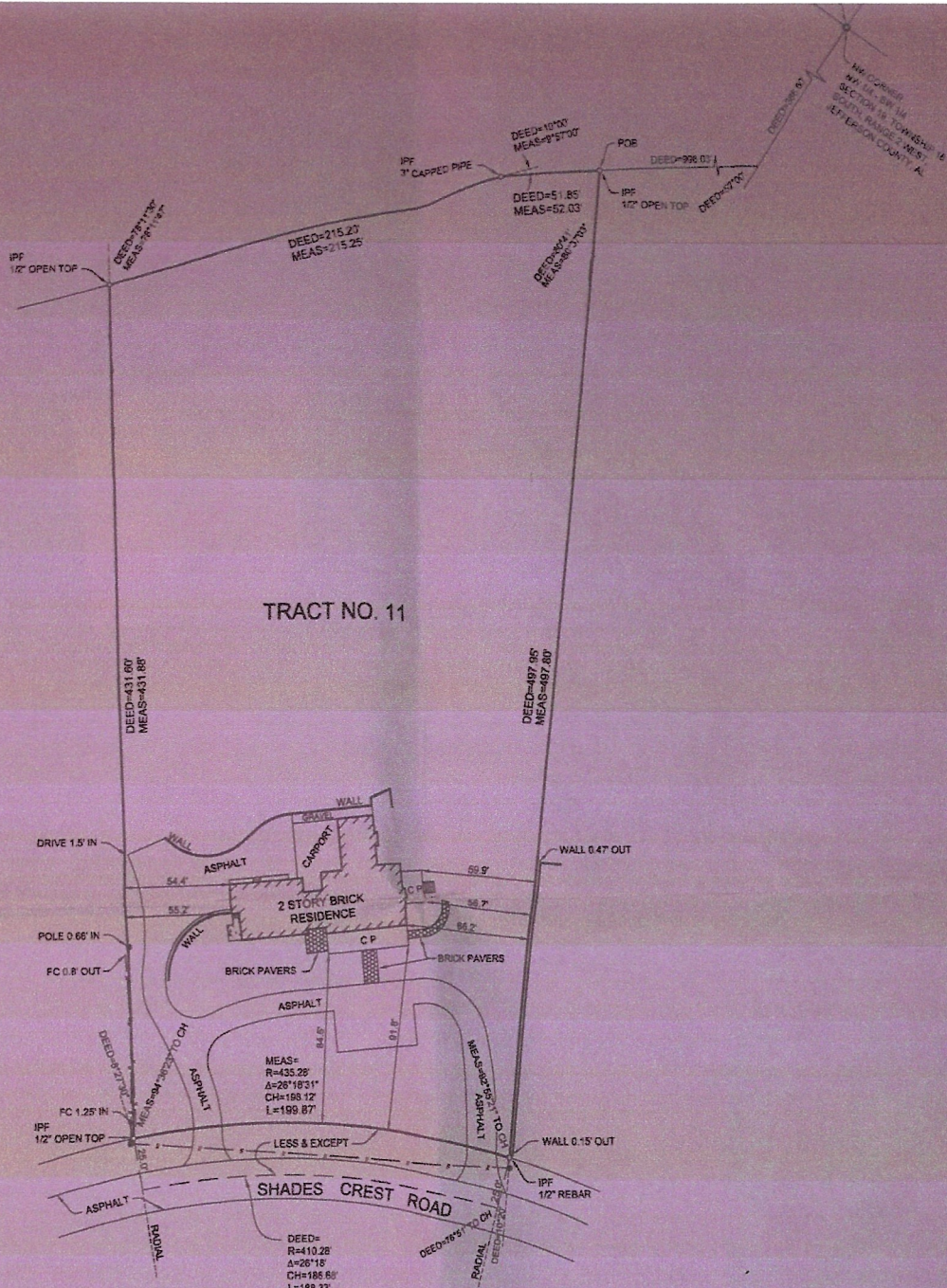
Zoning Code Section 4.5.7.C – The primary residential unit constructed upon the property must be located a minimum 100' from the front lot line.

The referenced property located at 1894 Shades Crest Road was built in 1948. Albeit a large lot, this property is topography challenged with a huge drop off directly behind the home forcing the home to be located closer to the road and property line. The natural ridge of shades mountain is narrower at this point which also adversely effected the homes' location in relation to the road and property line. The home itself sits 100' from the property line but the covered front patio encroaches the specified tolerance.

The owner would like to build his fencing & security gate in keeping with the placement of other properties in this historical neighborhood.



- LEGEND
- ASPH = asphalt
 - BLDG = building
 - BLDG = building
 - CALC = calculated
 - CAPI = capped pipe
 - CL = centerline
 - CH = chord
 - CONC = concrete
 - CONC = concrete
 - C = deflection
 - Δ = curve delta angle
 - E = east
 - EMT = easement
 - FC = fence
 - FO = found
 - HW = handrail
 - IPF = iron pin found
 - IPF = iron pin found with cap
 - IPF = iron pin not with cap
 - L = length
 - MEAS = measured
 - MIN = minimum
 - NSH = north
 - N = north
 - OH = overhang
 - P = point
 - PC = point of curve
 - POB = point of beginning
 - POC = point of commencement
 - PT = point of tangency
 - PROP = proposed
 - R = radius
 - REC = recorded
 - RES = residence
 - ROW = right of way
 - S = south
 - SAV = sanitary
 - STM = storm
 - SWR = sewer
 - SYN = synthetic
 - UTL = utility
 - U = unknown
 - W = west
 - VI = vertical
 - W = width
 - minutes in
 - bearing or angles
 - seconds in
 - bearing or angles
 - feet in distance
 - acres
 - more or less
 - or plus or minus



STATE OF ALABAMA
COUNTY OF SHELBY

I, Carl Daniel Moore, a registered Land Surveyor, certify that I have surveyed a parcel of land known as designated as Tract No. 11, as recorded in Map Book 26, page 39 in the Probate Office of Jefferson County, Alabama, more particularly described as follows:

Commence at the Northwest corner of the Northwest quarter of the Southwest quarter of Section 19, Township 16 South, Range 2 West; thence in a Southerly direction along the West boundary of said quarter-quarter Section 386.60 feet; thence turning an angle of 52 degrees, 00 minutes to the right in a Southwesterly direction 996.03 feet to the point of beginning of boundary of tract of land herein described; thence turning an angle of 80 degrees, 41 minutes, to the left in a Southeasterly direction 497.95 feet; thence turning an angle of 10 degrees, 20 minutes, to the right in a Southeasterly direction along a straight line 25.0 feet to intersection with the arc of a curve turning to the left in a Southwesterly direction and having a radius of 410.28 feet; said straight line being radial to said arc, said arc being subtended by a central angle of 26 degrees, 18 minutes, and having a chord of 196.69 feet in length, said chord forming an angle of 78 degrees, 51 minutes, to the right from said straight line; thence in a Southwesterly direction along said arc 188.33 feet; thence in a Northwesterly direction along a line radial to said arc 25.0 feet; thence turning an angle of 8 degrees, 27 minutes, 30 seconds to the right in a Northwesterly direction 431.60 feet; thence turning an angle of 78 degrees, 11 minutes, 30 seconds to the right in a Northeasterly direction 215.20 feet; thence turning an angle of 10 degrees, 00 feet to the right in a Northeasterly direction 51.85 feet to the point of beginning.

The above described parcel of land being situated in the East half of the Southeast quarter of Section 24, Township 18 South, Range 3 West, situated in Jefferson County, Alabama.

LESS AND EXCEPT that portion indicated as Shades Crest Road.

I furthermore certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama to the best of my knowledge, information, and belief; that I have consulted the Federal Insurance Administration "Flood Hazard Boundary Map" and found that this property is located in Zone X unshaded according to F.I.R.M. community panel number 010217 0483 E unincorporated area, Jefferson County, Alabama, dated 1-20-99; that the correct address is as follows: 1894 Shades Crest Road, according to my survey of October 28, 2003. Survey is not valid unless it is sealed with embossed seal or stamped in red.

Order No. 82745
Purchaser: Cavander
Type of Survey: Mortgage Loan

SURVEYING SOLUTIONS, INC.
2233 CAHABA VALLEY DRIVE
BIRMINGHAM, AL 35242
PHONE 991-8965

Carl Daniel Moore
Carl Daniel Moore, Reg. L.S. #12158
10-29-03
Date of Signature



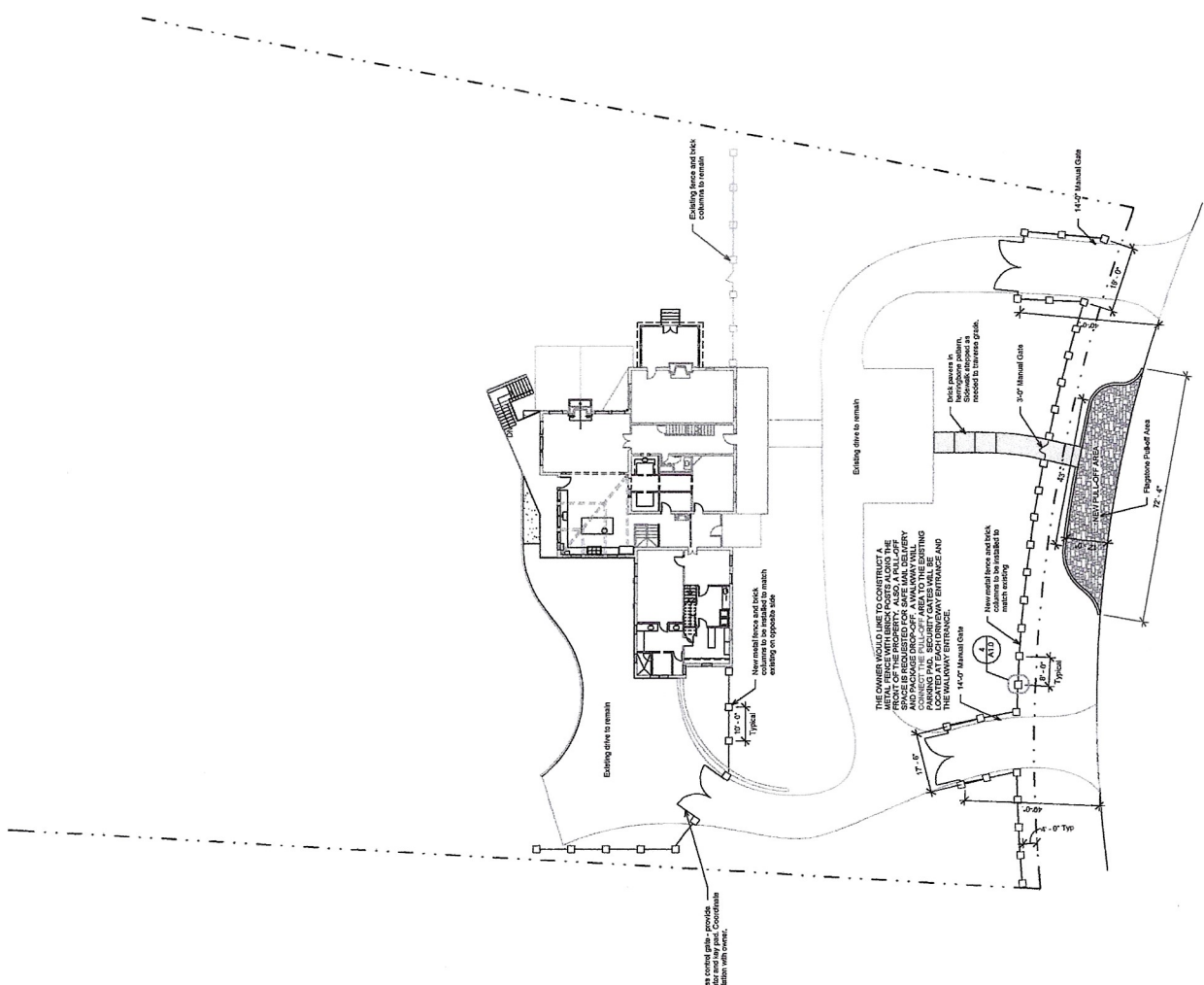
This is from Zoning Code, Section 4.5.7.

7. For security purposes, in all residential zoning districts, fences may be located between the front building setback and the front lot line providing that all of the following criteria are met:
- a. The residential property must be a lot of record recorded in the Office of the Judge of Probate; and
 - b. The recorded lot must consist of a minimum one (1) acre of property; and
 - c. The primary residential unit constructed upon the property must be located a minimum 100' from the front lot line; and
 - d. The fence and gate shall be constructed so as to be open, ornamental and decorative in style and constructed of finished stone, masonry and/or metal. Said fencing located within the front yard setback shall exclude wood and/or chain link fencing; and
 - e. Said fencing shall be located a minimum of 2' inside the front lot line or a minimum of 5' from any public improvements, within the right-of-way, whichever is greater. Said location shall be approved by the City Planner and/or City Engineer in order to mitigate adverse effects to the subject or adjacent properties. NOTE: All public improvements, including utilities, shall be designated on required drawings in the form of a survey and certified by an Engineer and/or Surveyor licensed by the State of Alabama; and
 - f. Said security gate shall be set back minimum 40' from the edge of pavement or at least 2' inside of the private property line, whichever is greater; and
 - g. A Knox switch/switches shall be installed and gate shall be at proper width in order to allow access for emergency vehicles and shall be approved by Fire Marshall prior to permitting."

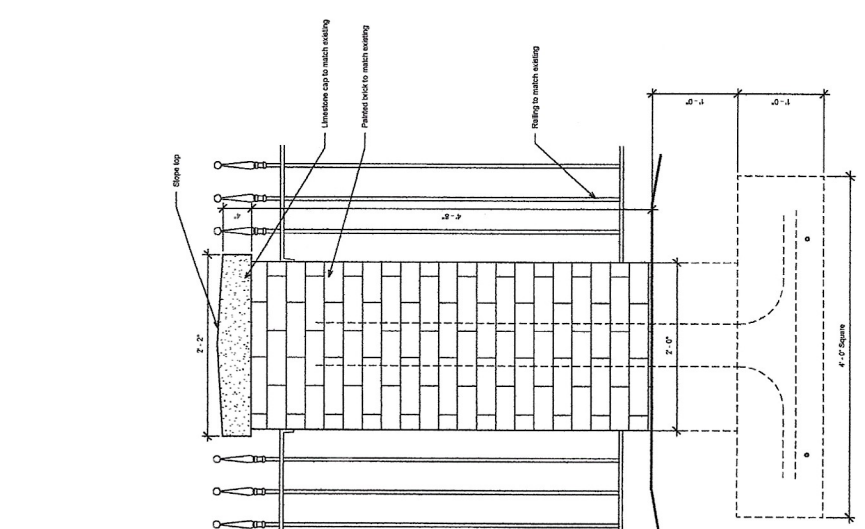
Client:
Brid and Shalley
Cavender
Project Location:
1894 Shades Crest Rd
Birmingham, AL 35218

REVISION	DATE

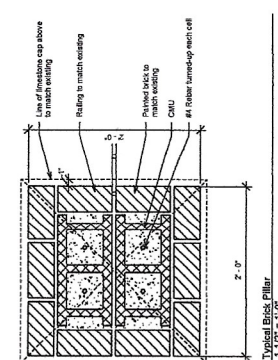
DATE: 10-21-21
DRAWING TITLE: Site Plan
PROJECT NUMBER: 23-00
FILE NUMBER: 23-00-01
SHEET NUMBER: 1 OF 1
ESTIMATED NUMBER: A1.0



THE OWNER WOULD LIKE TO CONSTRUCT A METAL FENCE WITH BRICK PIER POSTS ALONG THE DRIVEWAY. THE FENCE SHOULD BE INSTALLED IN THE SPACE IS REQUESTED FOR SAFETY AND DELIVERY. CONNECT THE FULL-COURT AREA TO THE EXISTING DRIVEWAY AT THE DRIVEWAY ENTRANCE AND THE DRIVEWAY ENTRANCE.



3 Brick Pillar Elevation
1/16" = 1'-0"



4 Typical Brick Pillar
1/16" = 1'-0"

1 Site Plan
1/16" = 1'-0"