



## **Board of Zoning Adjustment**

### **BOARD OF ZONING ADJUSTMENT**

**July 30th, 2024**

**Pre-meeting – 3:30 p.m. (7<sup>th</sup> Floor)**

**Meeting – 4:00 p.m. (Council Chambers)**

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## **MINUTES**

**MEMBERS PRESENT:** Chair Delayne Dean, Mr. Chester Ayers, Mr. Jeremy Goforth, and Mr. Tom Polk

**SUPERNUMERARIES:** Mrs. Flor Gonzalez

**OTHERS PRESENT:** Mrs. Ruth Priest, Assistant City Attorney  
Mr. Tommie Williams, Planner  
Mr. Josiah Harris, Planning Administrative Assistant II  
Mr. Bob Sims, Building Inspector

Chair Delayne Dean called the meeting to order at 4:00 p.m. in the Council chambers on the first floor at City Hall.

Chair asked that role be called. Present as noted above.

Chair asked if the May minutes required any corrections. There were no corrections made. Mr. Jeremy Goforth motioned to approve the minutes Mr. Tom Polk seconded the motion. On a voice vote, all yes, the motion carried. The minutes from the May 2024 meeting were approved.

### **CASE NO. 1**

Application and appeal of Mental Health Center of North Central Alabama Inc. for a use permitted on appeal for boarding houses from Section 25-12.2 to construct a 16 bed mental health facility located at 4204 Highway 31 South. Property is located in an I-D, Institutional District.

Tom Polk recused himself from the case due to involvement as an employee. Phillip Krause presented this case to the Board. Mr. Krause stated his name and address as 310 8<sup>th</sup> Avenue NE. Mr. Krause stated they are proposing an 11,000 square foot facility with 16 beds for mental health. Mr. Krause stated they are asking for a use permitted on appeal to operate a boarding house.

Chair asked for questions from the Board. None. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. None. Chair closed call for public testimony. Chair asked the Board for its ruling. Jeremy Goforth made a motion to vote on the set-back variance. Mark McCurry made a second. Chair called for role. All yes, the motion was approved.

### **CASE NO.2**

Application and appeal of Jason Pitts for a use permitted on appeal from Section 25-11 for on premise sale of alcoholic beverages to operate a lounge in The Little Cigar shop located at 110 2<sup>nd</sup> Avenue NE. The property is located in a B-5, Central Business District.

Jason Pitts presented this case to the Board. Mr. Pitts stated his name and address as 110 2nd Avenue NE. Mr. Pitts stated he asking for a use permitted on appeal to have on premise sale of liquor and beer without the sale of food. Chair Dean stated there are other approvals and requirements that must be met even if approved by the Board. Chair Dean stated the Board would be voting on the lounge aspect only. Mr. Pitts stated he intends to keep the operation small and not add to the current occupancy.

Chair asked for questions from the Board. None. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. None. Chair closed call for public testimony. Chair asked the Board for its ruling. Jeremy Goforth made a motion to vote on the set-back variance. Tom Polk made a second. Chair called for role. All yes, the motion was approved.

### **CASE NO. 3**

Application and appeal of Adam Weiger for a:

- (1) 12 feet rear yard set-back variance from Section 25-10.8 (2) (d.) to construct a covered porch
- (2) 2.67 feet side yard set-back variance from Section 25-10.8 (2) (e.) to construct a master bathroom addition,
- (3) variance from Section 25-2 (1) to construct a detached accessory structure in the side yard

located at 4403 Shawnee Circle SE. Property is located in an R-1, Single Family Residential District.

Adam Weiger presented this case to the Board. Mr. Weiger stated his name and address as 443 Shawnee Circle SE. Mr. Weiger stated the existing home sits in the far back corner of the lot and limits the ability to construct the proposed structures. Chair Dean asked if the neighborhood is regulated by an HOA. Mr. Weiger stated no.

Chair asked for questions from the Board. None. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. Tommie Williams asked what are the hardships for the request? Mr. Weiger stated the roof line and desired location of the master bedroom limits possibilities. Mr. Weiger stated the other hardships are the existing location of the home and maintaining pleasing aesthetics as compared to the surrounding properties. Tommie Williams stated the set-back requests are substantial. Chair asked for any more comments from the Planning Department. None. Chair closed call for public testimony. Chair asked the Board for its ruling. Jeremy Goforth made a motion to vote on the set-back variance. Tom Polk made a second. Chair called for role. All yes, the motion was approved.

#### **CASE NO. 4**

Application and appeal of John Mizell for a 13 feet rear yard set-back variance from Section 25-10.9 (2) (d.) to construct a pergola with a metal roof located at 702 Appaloosa Lane SW. Property is located in an R-2, Single Family Residential District.

Corey Mizell presented this case to the Board. Mr. Mizell stated his name and address as 702 Appaloosa Lane. Mr. Mizell stated he is requesting a variance to construct a covered pergola in the rear yard. Mr. Mizell stated the HOA has approved the pergola.

Chair asked for questions from the Board. None. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. Tommie Williams asked if there is a hardship. Mr. Mizell stated there was none. Tommie Williams stated granting this variance will make the house further out of compliance. Chair closed call for public testimony. Chair asked the Board for its ruling. Jeremy Goforth made a motion to vote on the set-back variance. Chester Ayers made a second. Chair called for role. All yes, the motion was approved.

#### **CASE NO. 5**

Application and appeal of Burney & Burney LLC for a 10 feet set-back variance from Section 25-77 (e) (3) to install a 33.04 square feet sign located at 433 Johnston Street SE. Property is located in a B-2, General Business District.

Brent Burney presented this case to the Board. Mr. Burney stated his name and address as 433 Johnston Street SE. Mr. Burney stated they are seeking a 10' variance to place a monument sign on the property. Mr. Burney stated the hardship is a 15' set-back would place the sign up against the building. Jeremy asked if there is a current sign on the property. Mr. Burney stated no.

Chair asked for questions from the Board. None. Chair asked for comments from the public. None. Chair asked for comments from the Building Department. None. Chair asked for comments from the Planning Department. None. Chair closed call for public testimony. Chair asked the Board for its ruling. Jeremy Goforth made a motion to vote on the set-back variance. Mark McCurry made a second. Chair called for role. All yes, the motion was approved.

Chair asked for any new business. None

Meeting adjourned at 4:20 p.m.

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Delayne Dean, Chair

## **AGENDA**

### **CASE NO. 1**

Application and appeal of God's Love Covenant Church for a:

- (1) 9.1 square foot sign area variance from Section 25-77 (a) (1)
- (2) 1.3 sign height variance from Section 25-76 (a) (1)

to install a sign located at 601 Memorial Drive SW. The property is located in an R-2, Single Family Residential District.

### **CASE NO.2**

Application and appeal of Francisco Hernandez for a 4.35 feet front yard set-back variance from Section 25-10.8 (2) (c) to construct a new single family dwelling 35.65 feet from the front property line located at 3705 Montclair Road SW. Property is located in an AG-1, Agricultural District.

### **CASE NO. 3**

Application and appeal of MMDC for a:

- (1) 8.8 feet rear yard set-back variance from Section 10.10 (2) (d)
- (2) 4.9 feet side yard set-back variance from Section 25-10.10 (2) (e)

to construct a new single family dwelling 26.2 feet from the rear property line and 1.1 feet from the side property line located at 811 Vine Street NW. Property is located in an R-3, Single Family Residential District.

### **CASE NO. 4**

Application and appeal of Pugh Wright McAnally for a:

- (1) 32 feet rear yard set-back variance from Section 25-10.10 (2) (d)
- (2) 2081 square feet lot area variance from Section 25-10.10 (2) (a)

to construct a new single family dwelling 0 feet from the rear property line located at 220 Clear Creek Drive SW. Property is located in an R-3, Single Family Residential District.



A Beautiful City on a CHARMING SCALE

402 Lee St NE 1<sup>st</sup> Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: Gods Love Covenant Church  
 MAILING ADDR: P.O Box 5133  
 CITY, STATE, ZIP: Decatur AL 35603  
 PHONE: 256 654-3863

PROPERTY OWNER: Quentin and Beth Gillett  
 OWNER ADDR: \_\_\_\_\_  
 CITY, STATE, ZIP: Hartselle AL 35640 PHONE: 256 214 2314

ADDRESS FOR APPEAL:  601 Memorial Dr. SW Decatur AL 35601

NATURE OF APPEAL:

- HOME OCCUPATION
- SETBACK VARIANCE
- SIGN VARIANCE
- USE PERMITTED ON APPEAL
- APPEAL OF ADMINISTRATIVE DECISION
- OTHER
- SURVEY FOR VARIANCES ATTACHED
- DRAWINGS FOR VARIANCs ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

Requesting change of required dimension for church sign  
Requestin a 9.1 s.f. area variance and 1.3 Height Variance

Applicant Name (print) Carl Willingham  
 Signature [Signature]  
 Representative Name (print) \_\_\_\_\_  
 Signature \_\_\_\_\_  
 Date \_\_\_\_\_

If applicant is using a representative for the request both signatures are required

Office Use Received By: [Signature]  
 Zone R-2  
 Hearing Date 4/30/2024  
 Approved/Disapproved \_\_\_\_\_

CASE NO. 1 601 MEMORIAL DR. SW



Picture





402 Lee St NE 1st Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: Francisco V Hernandez

MAILING ADDR: 3325 Danville Rd SW

CITY, STATE, ZIP: Decatur, AL 35603

PHONE: (256) 445-2536

PROPERTY OWNER: Francisco V Hernandez

OWNER ADDR: 3325 Danville Rd SW

CITY, STATE, ZIP: Decatur, AL 35603 PHONE: (256) 445-2536

ADDRESS FOR APPEAL: 3705 Montclair Rd SW Decatur, AL 35603

NATURE OF APPEAL:

- HOME OCCUPATION
- SETBACK VARIANCE
- SIGN VARIANCE
- USE PERMITTED ON APPEAL
- APPEAL OF ADMINISTRATIVE DECISION
- OTHER
- SURVEY FOR VARIANCES ATTACHED
- DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

House is 50% constructed and corners were set 5' into the set back by surveyor.

\_\_\_\_\_

\_\_\_\_\_

Applicant Name (print) Francisco V Hernandez

Signature [Signature]

Representative Name (print) \_\_\_\_\_

Signature \_\_\_\_\_

Date 7/11/24

If applicant is using a representative for the request both signatures are required

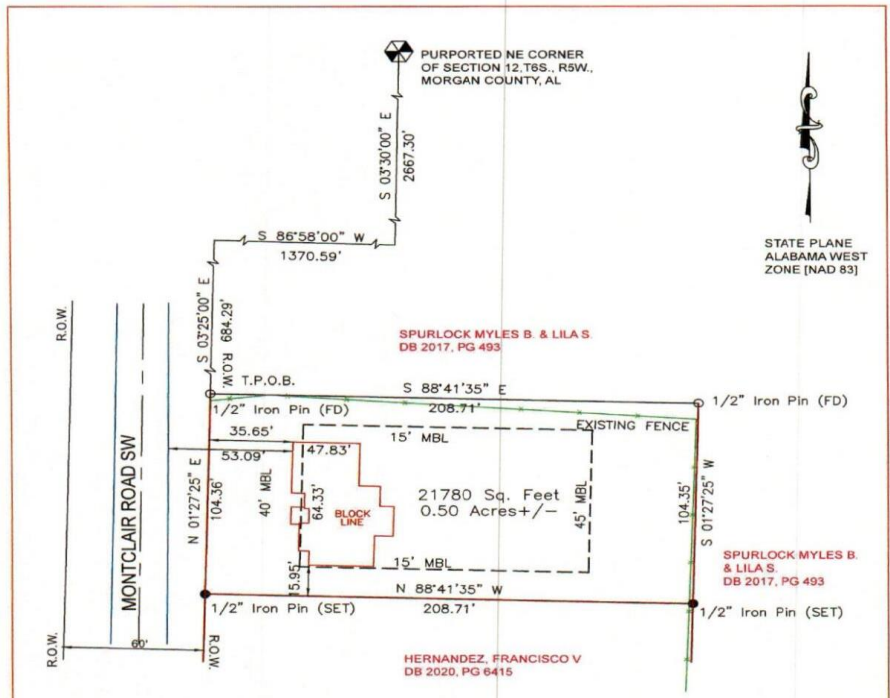
Office Use Received By: [Signature]

Zone AG-1

Hearing Date 7/30/24

Approved/Disapproved \_\_\_\_\_

CASE NO. 2 3705 MONTCLAIR RD. SW



STATE PLANE ALABAMA WEST ZONE (NAD 83)

STATE OF ALABAMA  
COUNTY OF MORGAN

I, Ronald S. Stroup a Registered Engineer and Licensed professional Land Surveyor, State of Alabama, I hereby report that to the best of my knowledge, information and beliefs, the following is a true and correct map or plat of the following described tract of land.

Beginning at the NE corner of Section 12, Township 6 South, Range 5 West; thence S 3° 30' E along the east boundary line of Section 12 a distance of 2667.3 feet to a point; thence S 86° 58' W along the north boundary line of the NE 1/4 of the SE 1/4 a distance of 1370.59 feet to a point; thence S 3° 25' E along the west boundary line of the NE 1/4 of the SE 1/4 a distance of 684.29 feet to the TRUE POINT OF BEGINNING; thence S 88°41'35\"/>

I hereby report that all parts of this survey and drawing have been completed in accordance with the requirements of the Minimum Technical Standards or the Practice of Land Surveying in the State of Alabama, this being to the best of my knowledge, information, and beliefs on this dated the 7th day of March 2024.

I hereby certify that I have consulted the FIRM (Flood Insurance Rate Map) prepared by the U.S. Department of Housing and Urban Development in cooperation with the Federal Administration, Community Panel No.01103C0067F, dated August 16, 2018, and found portions of the above described property is located in a Floodway Zone X. No other information has not been verified with field data, but from map overlays.



I hereby state that all parts of this survey and drawing have been completed in accordance with the requirements of the Standards of Practice for Land Surveying in the State of Alabama, this being to the best of my knowledge, information and beliefs. Copyrighted by Ronald S. Stroup, no part of this drawing may be copied, added to, altered or reproduced by any means without the permission from Ronald S. Stroup, Alabama license No. 12707.

	<b>MID-SOUTH TESTING INC., 2220 BELTLINE ROAD SW, DECATUR ALABAMA, 35601</b>		Scale: 1" = 50'	Project No: 23-01-0535
	Sheet of	Title <b>Block line as Built</b>	Date: 7 March 24	Cad name: FRANKHERNADEZJR
	Project <b>FRANK HERNANDEZ JR</b>	Drawn By: GCREELE	File: W-WORKING DWG	



A Grand City on a Charming Scale

402 Lee St NE 1st Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: MMDC  
 MAILING ADDR: 13451 Mooresville Rd  
 CITY, STATE, ZIP: Athens, AL 35613  
 PHONE: 256-929-8074

PROPERTY OWNER: Ethel Batts  
 OWNER ADDR: \_\_\_\_\_  
 CITY, STATE, ZIP: \_\_\_\_\_ PHONE: 281-923-0299

ADDRESS FOR APPEAL: 811 VINE STREET

NATURE OF APPEAL:

- HOME OCCUPATION
- SETBACK VARIANCE
- SIGN VARIANCE
- USE PERMITTED ON APPEAL
- APPEAL OF ADMINISTRATIVE DECISION
- OTHER
- SURVEY FOR VARIANCES ATTACHED
- DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

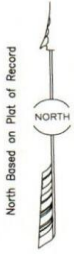
We are asking for a 8.8 rear yard and a 4.9 side yard set back variance as shown

Applicant Name (print) MMDC  
 Signature RBLK  
 Representative Name (print) Row Black  
 Signature RBLK

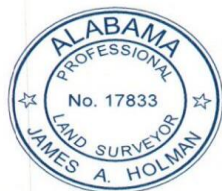
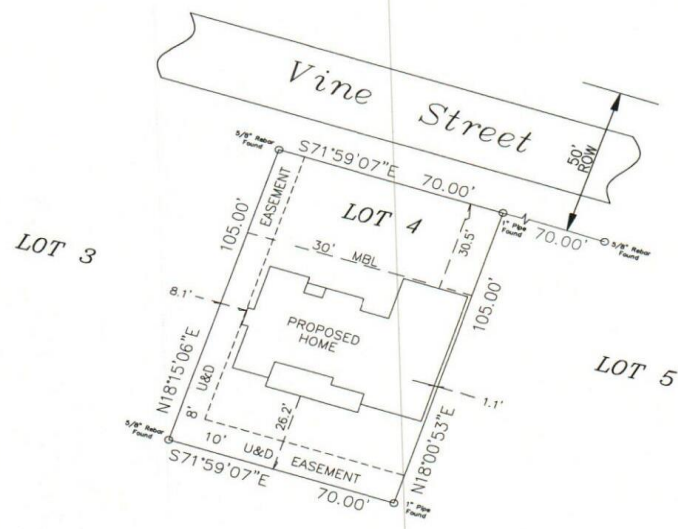
If applicant is using a representative for the request both signatures are required

Office Use Received By: [Signature]  
 Zone R-3  
 Hearing Date 7/30/24  
 Approved/Disapproved

CASE NO. 3 811 VINE ST. NW



- NOTES:**
- 1) NO FIELD LOCATION WAS ATTEMPTED TO DETERMINE THE EXTENT OF SUB-SURFACE STRUCTURES.
  - 2) ONLY SURFACE UTILITY STRUCTURES WHICH ARE LOCATED WITHIN THE BOUNDARY AND OUTSIDE OF DEDICATED EASEMENTS ARE SHOWN.
  - 3) NO INSTRUMENTS OR RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY, AND/OR OWNERSHIP WERE FURNISHED SURVEYOR EXCEPT AS SHOWN.
  - 4) HOUSE PLANS HAVE BEEN MODIFIED FROM THE ORIGINAL PLANS PER THE REQUEST OF THE BUILDER.
  - 5) THIS PLAT IS A PROPOSED LAYOUT TO BE VERIFIED BY THE CITY OF DECATUR.
  - 6) This document along with the information, ideas, and designs conveyed herein, shall be considered instruments of professional service and are the property of Huntsville Land Company, Inc. Any use, reproduction, or distribution of this document, along with the information, ideas, and designs contained herein is prohibited unless authorized in writing by Huntsville Land Company, Inc., or explicitly allowed in the governing professional services agreement for this work.



State of Alabama  
County of Morgan

I, James A. Holman, a Registered Land Surveyor with the firm of Huntsville Land Company, Inc., hereby state that to the best of my knowledge, information and belief, the foregoing is a true and correct map or plat of Lot 4, According to the Plat or Survey of 4th Increment - Vine Street Phase I Redevelopment Project recorded as Plat book 6, Page 108 in the office of the Judge of Probate, Morgan County, Alabama; that the survey represented hereon meets the minimum technical standard requirements for land surveying in the State of Alabama as adopted by the Alabama Society of Professional Land Surveyors; that the address based on reliable information and sources available to the undersigned is 811 Vine Street, Decatur, AL 35601 according to this survey this the 26th day of June, 2024.

Type of Survey: PROPOSED LAYOUT		Work Order: MB20241810	Drawn by: T.C.B.
Field Work Completed: 6/24/2024	Office Work Completed: 6/26/2024	Revised: J.A.H.	Scale: 1" = 20'
HUNTSVILLE LAND COMPANY, INC. COPYRIGHT 2024		P.O. BOX 14448 HUNTSVILLE AL 35815	

Survey



402 Lee St NE 1<sup>st</sup> Floor Council Chamber

Board of Zoning Adjustment

APPLICANT: Huntsville LD, LLC

MAILING ADDR: 4058 North College Avenue, Suite 300

CITY, STATE, ZIP: Fayetteville, AR 72703

PHONE: 479-439-0232

PROPERTY OWNER: Huntsville LD, LLC

OWNER ADDR: 4058 North College Avenue, Suite 300

CITY, STATE, ZIP: Fayetteville, AR 72703 PHONE: 479-439-0232

ADDRESS FOR APPEAL: Clear Creek Drive 220

NATURE OF APPEAL:

- HOME OCCUPATION   
  SETBACK VARIANCE   
  SIGN VARIANCE  
 USE PERMITTED ON APPEAL   
  APPEAL OF ADMINISTRATIVE DECISION  
 OTHER   
 SURVEY FOR VARIANCES ATTACHED   
 DRAWINGS FOR VARIANCES ATTACHED

\*\*\*\*\*Applicants or Duly Appointed Representative MUST be present in order

For the case to be heard\*\*\*\*\*

DESCRIBE APPEAL IN DETAIL: (INCLUDE DIMENSIONS, # FT FOR VARIANCES; # FOR PARKING; HARDSHIP; TYPE OF BUSINESS)

Lot 1A, Replat of Lot 1, Valley Park North Phase 1, pending Planning Commission approval.  
 Requesting Rear Yard setback to be zero feet due to existing floodway.  
 Request lot size variance of 2081 square feet.  
 Proposed Lot 1B, Replat of Lot 1, Valley Park North Phase 1 (behind subject property)  
 is located within a FEMA Floodway, preventing any building improvements to be placed on it.

Applicant Name (print) Stephen Lieux

Signature

Representative Name (print) N/A

Signature N/A

Date 6/12/2024 | 9:32 AM CDT

If applicant is using a  
 representative for the  
 request both signatures  
 are required

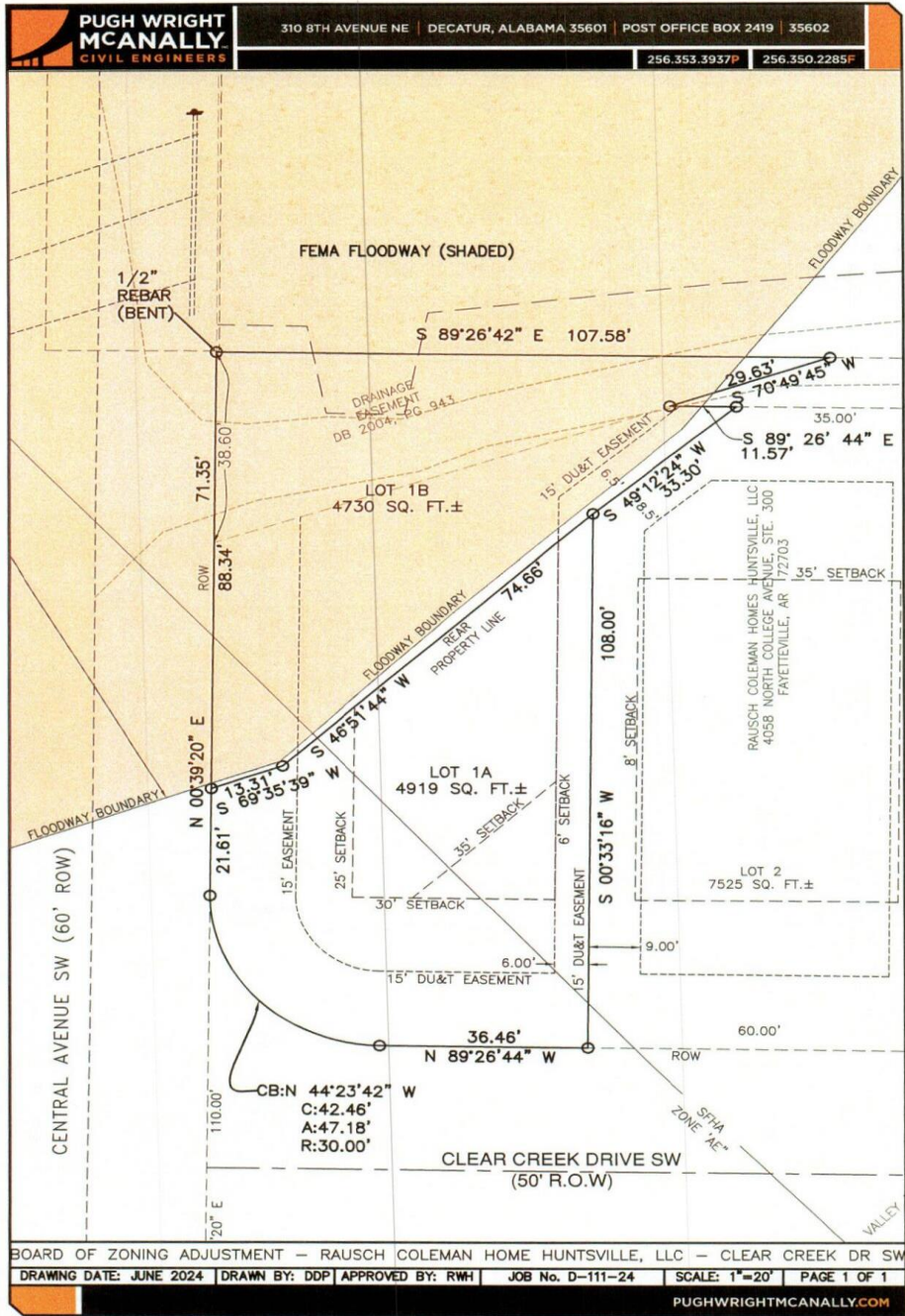
Office Use Received By:

Zone R-3

Hearing Date 7/30/24

Approved Disapproved

CASE NO. 4 220 CLEAR CREEK DR.



Survey