

**STATE OF ALABAMA  
SHELBY COUNTY**

**SHELBY COUNTY PLANNING COMMISSION MINUTES**

**Regular Meeting – March 18, 2019 – 6:00 PM**

**Members Present:** Jim Davis, Chairman; Michael O’Kelley, Vice Chairman; Bob Land; Samuetta Nesbitt; Jay Gunther; Kenneth Wilder

**Members Absent:** Bill Kinnebrew

**Staff Present:** Chad Scroggins, Development Services Manager; Christie Pannell-Hester, Planning Services Supervisor; Sharman Brooks, Senior Planner; Kristine Goddard, Principal Planner

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**PUBLIC HEARING**

The meeting was called to order at 6:00 P.M. by Jim Davis, Chairman. **Commissioner Davis** introduced the members of the Planning Commission and the County staff. There were approximately seven audience member(s) present in addition to the Planning Commission members and County staff.

**Approval of the Minutes of the March 4, 2019 Planning Commission Meeting.**

**Commissioner O’Kelley** made a motion to approve the minutes of the March 4, 2019 meeting with a minor correction to the “motion to adjourn”; the motion was seconded by **Commissioner Wilder**. By a unanimous vote of six (6-0), with Commissioners Davis, Land, O’Kelley, Nesbitt, Wilder and Gunther voting in favor, the minutes of the March 4 meeting were approved.

**1. V19-002 Proctor Yard Variance**

This is a request from Tonya T. Proctor, property owner, for approval of variance to construct an accessory structure, a pool, in a front yard.

The subject property is zoned E-1, Single Family Estate District and is located at 5307 Caldwell Mill Road. Parcel Identification No. 58-10-5-15-0-002-003.001.

Ms. Kristine Goddard described the case and presented the following information to the Planning Commission:

The subject property, located at 5307 Caldwell Mill Road, is lot 7A of Montalbano Estates. Lot 7A was part of a Resurvey of Lot 3 and Resubdivision of Lot 7 of Montalbano Estates, approved by the Planning Commission on August 15, 2016 and recorded in Map Book 47, Page 28. The subject property is zoned E-1, Single Family Estate District. Surrounding properties in unincorporated Shelby County are zoned E-1, E-2 and E-2 SD. Lot 1 and 2 of Montalbano Estates to the east of the subject property are within Indian Springs Village corporate limits and zoned E-1.

The subject property is heavily wooded with relatively steep slopes. A permit to construct a single family residential home was issued in November of 2017. The home was constructed on a plateau and only the building pad area was cleared of trees to construct the dwelling. The

building pad of the property is located at a higher elevation than the two adjacent public roads. The dwelling is oriented away from Windwood Circle and toward the internal private access for Lots 1, 3 and 7B of Montalbano Estates, essentially backing up to Caldwell Mill Road. The two nearby residential structures are also oriented toward the internal private access drive.

The front of the subject parcel faces Caldwell Mill Road. A small parcel of land between the subject parcel and Windwood Circle prevents the subject property from being defined as a corner lot. A front yard is defined by the paved public road location, with the front yard always between the public road and primary structure regardless of home orientation. The only exception to this definition is when a lot is located on a lake; the yard between the home and the lake may be considered the front. The subject property is not a lake lot. According to Article XXI, Section 7, item 3, accessory structures may be built in a rear yard.

The subject property is located in the E-1, Single Family Estate District. Setbacks in the E-1 district are as follows.

The residence on the subject parcel is setback approximately 103 feet from Caldwell Mill Road. This distance exceeds the required front yard by 63 feet. The applicant requests to place the pool in the front yard of the property and adjacent to the home for the following reasons:

- 1. The front of our home on Lot 7a in Montalbano Estates was built to face shared road and cul-de-sac to maintain consistency with the existing homes that were built with fronts facing in this manner.**
- 2. Lot 7a is 30-40' above Caldwell Mill Rd located on large hillside. The current elevation of Lot 7a provides a natural privacy barrier to visibility of Lot 7a from street level. The house is not visible, nor the pool.**
- 3. Lot 7a is approximately 20' above street level of boarding Windwood neighborhood. The property for Lot 7a is not visible from either of the bordering roads, Caldwell Mill and Windwood Dr.**
- 4. The best location for placement of the pool was based upon topography of the lot, personal consideration for our neighbors with adjacent lots.**
- 5. House plan was approved with front of house facing same as the positions of the other existing homes and with our backyard toward Caldwell Mill.**
- 6. The private road located off Caldwell Mill is exclusively for residents and the heavily wooded grounds surrounding the back side of house provides additional privacy from the shared road used by the other 3 lot owners who share the road with Lot 7a.**

Section 3 of Article XXIII of the *Zoning Regulations of Shelby County, Alabama* identifies that the Planning Commission may authorize a variance based on the existence of the following conditions:

- 1. That the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.*
- 2. That the granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.*

3. *That the authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Shelby County.*

Staff acknowledges the unique topography of the subject property, as well as, the orientation of the home, chosen by the applicant, in order to continue a similar orientation with the existing nearby residences. By orienting the structure in this manner, however, the property owner has limited the available space and location of accessory structures such as swimming pools and detached garages or storage sheds.

Private residential swimming pools are considered to be accessory structures. According to Article XXI, Section 7, item 3, accessory structures may be built in a rear yard only.

In order to grant a variance, the Shelby County Planning Commission must determine that a request for a variance of the Zoning Regulations meets all criteria of Section 3 of Article XXIII of the *Zoning Regulations of Shelby County*.

Tonya Proctor, 5307 Caldwell Mill Road, property owner and applicant, stated that the reason they chose to layout the pool in this direction, was to keep consistency within the home configuration on neighboring lots. She stated that it made sense to put the pool in the L shape of the house. She continued that they did not realize it would be a problem, especially since you can't see more than a touch of the roof side from the road.

**Commissioner Davis** asked if she was aware of restrictions for accessory structures in the Shelby County Ordinance.

Mr. Proctor stated that she was not aware that this would be considered her front yard.

The following spoke in favor of the proposal.

Angelina Buchanan, 5335 Caldwell Mill Road, stated that she has no objections with the pool being located in the proposed area. She stated that the adjacent property may be in a similar situation. She stated that the trees and the house surrounding the pool would cut down on any noise.

**Commissioner Wilder** asked Ms. Buchanan to point out her property.

Ms. Buchanan identified her lot on the screen and explained that she split her mother's property and Mr. Proctor purchased the top portion of the property.

**Commissioner Wilder** noted that there are two other homes on the shared access that face the same way. He stated that if they place the pool in the back of the property that could be a burden on those two homes. He stated that he is trying to see if item #2 could be justified.

Ms. Buchanan agreed and stated that it would also benefit Windwood with natural buffers.

No one spoke in opposition to the proposal.

With no further discussion, **Commissioner Davis** called for a motion. **Commissioner Wilder** made a motion in Case **V19-002 Proctor Yard Variance** the evidence and testimony warrant Approval subject to addressing staff comments. The motion was seconded by **Commissioner Gunther** and by a vote of five (5-1), with Commissioners Davis, Wilder, O’Kelley, Nesbitt and Gunther voting in favor of the motion and Commissioner Land voting in opposition, the following resolution was approved:

**WHEREAS**, Tonya T. Proctor, property owner, has petitioned the Shelby County Planning Commission for approval of a variance to construct an accessory structure, a pool, in a front yard; a variance of Article XXI. Section 7, item 3; and,

**WHEREAS**, the subject property is zoned E-1 and is located at 5307 Caldwell Mill Rd; Parcel Identification No. 58-10-5-15-0-002-003.001; and,

**WHEREAS**, the accessory structures are required to be constructed in a rear yard; and,

**WHEREAS**, the front yard of the property, by definition, is along Caldwell Mill Road; and,

**WHEREAS**, the unique topography and characteristics of the surrounding properties motivated the applicant to construct the primary home facing the rear of the lot and the private drive; and,

**WHEREAS**, the primary structure was constructed at greater than 100 feet from the front property boundary and in excess of 60 feet further than the required front setback of 40 feet; and,

**WHEREAS**, the placement of the pool in the rear yard would cause it to be located on a slope and in the front view of the neighboring established homes; and,

**WHEREAS**, the Planning Commission has determined that the special circumstances or conditions applying to the building or land in question are peculiar to such premises; and,

**WHEREAS**, the granting of this application would allow the applicant to complete the construction and receive final inspections on building permits; and,

**WHEREAS**, allowing the construction of the pool in the front yard will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Shelby County; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the application of Tonya T. Proctor, property owner, for approval of a variance to construct an accessory structure, a pool, in a front yard; a variance of Article XXI. Section 7, item 3, located at 5307 Caldwell Mill Road; Parcel Identification No. 58-10-5-15-0-002-003.001be, and the same is hereby **Approved**, subject to:

- Compliance with the regulations, policies and guidelines of Shelby County.

## 2. SN19-002 Resubdivision of Lot 1, Beasley Family Subdivision

This is a request from John Beasley, property owner, for approval of a final plat to subdivide 4.98 acres, Lot 1 of Beasley Family Subdivision, into two lots for residential use, to be known as A Resubdivision of Lot 1 of Beasley Family Subdivision.

The subject property is zoned A-1, Agricultural District and is located at 1668 County Road 42. Parcel Identification No. 58-28-1-02-0-000-002.000.

Ms. Kristine Goddard described the case and presented the following information to the Planning Commission:

The subject property is located at 1668 County Road 42 approximately 1.5 miles southeast of the intersection of County Road 70 and County Road 42. Single family residential development on lots ranging in size from one acre to more than 10 acres appear to be the predominant land use in the surrounding area both in the city limits of Calera and unincorporated Shelby County. Properties located in unincorporated Shelby County are zoned A-1, Agricultural District.

The Beasley Family Subdivision (S-95-05) was reviewed and approved as an administrative one lot family subdivision in 2006 and recorded in Map Book 36, Page 84.

The applicant is requesting to subdivide Lot 1 into two lots for the placement of a second residence. The proposed Lot 1A contains 3.98 acres and proposed Lot 1B contains one acre. The subject property is zoned A-1, Agricultural District. Both of the proposed lots meet the dimensional requirements of the A-1 District. The resubdivision of Lot 1 will create a total of two lots in the family subdivision.

A single family home is located on proposed Lot 1A in the southern portion of the site and meets dimensional requirements of the A-1 District.

Water Service from Shelby County is not available for these lots. Access to County Road 42 from the subject property is via a nonexclusive ingress/egress and utility easement (*see plat to the left*). The subject property is within the Calera Fire Service District.

According to the *Subdivision Regulations of Shelby County*, a family subdivision is a subdivision of land into no more than five parcels, including remnant parcels, for the purpose of dividing land among the following designated legally related family members: spouse, siblings, children, grandchildren, parents, grandparents, or step-related individuals of the same status. The purpose of this subdivision is to create two lots in the family subdivision from Lot 1 Beasley Family Subdivision. The proposed resubdivision will create two lots. The subdivision as submitted meets the requirements of the Subdivision Regulations of Shelby County subject to the following items:

- Applicant submitting a record map for approval and recording;
- Compliance with the regulations, policies and guidelines of Shelby County, Alabama.

John Beasley, applicant, stated that he wants to deed property to his son.

**Commissioner Nesbitt** asked if the house was occupied.

Mr. Beasley replied yes, it is his home.

**Commissioner O’Kelley** asked how many total lots would be in the Family Subdivision.

Ms. Goddard replied that there will be two.

No one spoke in favor or in opposition of the proposal.

With no further discussion, **Commissioner Davis** called for a motion. **Commissioner Land** made a motion in Case **SN19-002 Resubdivision of Lot 1, Beasley Family Subdivision** the evidence and testimony warrant Approval subject to addressing staff comments. The motion was seconded by **Commissioner O’Kelley** and by a unanimous vote of six (6-0), with Commissioners Davis, Wilder, O’Kelley, Nesbitt, Land and Gunther voting in favor, the following resolution was approved:

**WHEREAS**, John Beasley, property owner, has petitioned the Shelby County Planning Commission for approval of a final plat to subdivide 4.98 acres, Lot 1 of Beasley Family Subdivision, into two lots for residential use, to be known as A Resubdivision of Lot 1 of Beasley Family Subdivision; and,

**WHEREAS**, the subject property is located at 1668 County Road 42; Parcel Identification No. 58-28-1-02-0-000-002.000; and,

**WHEREAS**, the subject property is zoned A-1, Agricultural District; and,

**WHEREAS**, the final plat and documents meet the requirements of the Zoning Ordinance of Shelby County; and,

**WHEREAS**, the final plat and documents meet the requirements of the Subdivision Regulations of Shelby County; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the request from John Beasley, property owner, for the approval of a final plat to subdivide 4.98 acres, Lot 1 of Beasley Family Subdivision, into two lots for residential use, to be known as A Resubdivision of Lot 1 of Beasley Family Subdivision and located at 1668 County Road 42; Parcel Identification No. 58-28-1-02-0-000-002.000, be and the same is hereby **Approved** subject to:

- Applicant submitting a final plat for recording; and
- Compliance with the regulations, policies and guidelines of Shelby County.

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### **Resolution of Appreciation for Bob Land**

**Commissioner Davis** read the following Resolution of Appreciation for Bob Land:

*WHEREAS, Mr. James R. “Bob” Land, has rendered distinguished service as a member of the Shelby County Planning Commission since he was first appointed on December 26, 2001; and,*

*WHEREAS, Mr. Land continuously provided a wealth of knowledge regarding planning, zoning, and regulatory issues and the expertise to deal with these complex issues; and,*

*WHEREAS, during his service on the Planning Commission, Mr. Land tirelessly attended a myriad of meetings in the community to stay aware of the views and feelings of the citizens he represented; and,*

*WHEREAS, Shelby County has benefited greatly from his valuable leadership and guidance as the Chairman of the Planning Commission for three individual terms;*

*NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that said Commission hereby recognizes and publicly expresses its sincere appreciation and gratitude to Mr. James R. "Bob" Land for his service to Shelby County and its citizens.*

*Adopted unanimously this 18th day of March 2019.*

### **3. Nominations for Vice-Chairman**

**Commissioner Land** nominated **Commissioner Kinnebrew** as Vice-Chairman of the Planning Commission and with a unanimous vote 6 -0, with Commissioners Davis, O'Kelley, Land, Nesbitt, Gunther and Wilder, the nomination was approved.

Mr. Scroggins stated that the Shelby County Commission would appoint a replacement for Bob Land.

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There being no further business, **Commissioner O'Kelley** made a motion to adjourn. The motion was seconded by **Commissioner Wilder** and by a unanimous vote of six (6-0), with Commissioners Davis, O'Kelley, Land, Nesbitt, Wilder and Gunther voting in favor, the meeting of March 18, 2019 was adjourned at 7:02 P.M.

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Christie Hester  
Planning Services Supervisor

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Jim Davis, Chairman  
Shelby County Planning Commission