

**BALDWIN COUNTY COMMISSION #2
BOARD OF ADJUSTMENT**

AGENDA

**March 14, 2011
Regular Meeting
4:00 p.m.**

**Fairhope Satellite Courthouse Safe Room
Fairhope, Alabama**

1. Call to order.
2. Roll Call.
3. Approval of Previous Meeting Minutes (December 13, 2010).
4. Announcements/Registration to Address the Board of Adjustment.
5. Consideration of Applications and Requests:

ITEMS:

a.) Case No. V-100013 Quinnelly Property

Request: Approval of a six month time extension on a previously approved front and rear yard setback variance which was originally granted in October 2010.

Location: The subject property is located 11305 County Road 1 in Planning District 26.

Attachments: *Within Report.*

Case No. V-110007 Glenday Property

Request: A variance to allow for the construction of a gazebo within the required front yard.

Location: The subject property is located 16989 Scenic Hwy 98 in Planning District 26.

Attachments: *Within Report.*

6. Old business.
7. New business.
 - a.) Election of Officers for 2011
8. Adjournment.



Baldwin County Planning & Zoning Department County Commission District #2

Board of Adjustment Staff Report

**Case No. V-100013
Quinnelly Property
Setback Variances for a Proposed Single Family Dwelling, (6 month extension)
March 14, 2011**

Subject Property Information

Planning District: 26
Study Area: 2
General Location: Lot 10, Block "F", Jubilee Point Subdivision on Mobile Bay
Physical Address: 11305 County Road 1
Parcel Number: 05-56-08-33-0-000-071.000
Zoning: RSF-2, Single Family District
FLU: Coastal Zone District and Conservation District
Lot Size: Approximately 50' x 111'
Applicant: Jeff Quinnelly
P.O. Box 81449
Mobile, AL 36689
Owner: Same
Lead Staff: Vince Jackson, Senior Planner
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning	Adjacent FLU
North	Residential	RSF-2	Coastal Zone District and Conservation District
South	Residential	RSF-2	Coastal Zone District and Conservation District
East	Undeveloped	RA	Conservation District
West	Mobile Bay	N/A	N/A

Summary and Recommendation

The applicant is requesting a six (6) month extension of the previously approved variance to allow for the construction of a new single family dwelling. The zoning requirements at issue are the rear (road side) setback and front (water side) setback. With regard to the rear setback, the applicant has proposed constructing the dwelling to the rear property line, which would be a variance of 30-feet. For the front setback, a variance of 16-feet has been requested. This would provide a setback of 34-feet.

Staff recommends that Case No. V-100013, Quinnelly Property, be **EXTENDED** for a period of six (6) months from the date of original approval (October 11, 2010).*

* A majority vote of the members present will be necessary to approve this request.

The applicant requested a variance to allow for the construction of a new single family dwelling. The zoning requirements at issue are the rear (road side) setback and front (water side) setback. With regard to the rear setback, the applicant has proposed constructing the dwelling to the rear property line, which would be a variance of 30-feet. For the front setback, a variance of 16-feet has been requested. This would provide a setback of 34-feet.

Additional Information

Section 4.3 RSF-2, Single Family District

4.3.1 Generally. This zoning district is provided to afford the opportunity for the choice of a moderate density residential environment consisting of single family homes.

4.3.2 Permitted uses. Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses shall be permitted:

- (a) The following general industrial uses: extraction or removal of natural resources on or under land.
- (b) The following transportation, communication, and utility uses: water well (public or private).
- (c) The following agricultural uses: Silviculture.
- (d) Single family dwellings including manufactured housing and mobile homes.
- (e) Accessory structures and uses.
- (f) The following institutional use: church or similar religious facility.

4.3.3 Conditional uses. Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

4.3.4 Special exception. Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 13.11: Bed and Breakfast Establishments*).

4.3.5 Area and dimensional ordinances. Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, *Section 12.4: Height Modifications*, *Section 12.5: Yard Requirements*, *Section 12.6: Coastal Areas*, *Section 12.8: Highway Construction Setbacks*, *Section 18.6 Variances*,

and Article 20: Nonconformities, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet
Minimum Front Yard	*30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	**10-Feet
Minimum Lot Area	15,000 Square Feet
Minimum Lot Width at Building Line	80-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

***Section 12.5 Yard Requirements**

12.5.1 Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend more than 2-feet beyond the yard area requirements. (For additional provisions see Section 22.2, Definitions "Accessory Structure" and "Structure")

12.5.2 Yard requirements shall be modified subject to the following conditions:

(f) All buildings or structures located within coastal high hazard areas (V-zones) shall be located 50-feet landward of the reach of the mean high tide.

****2.3.26.3 Local Provisions for Planning district 26**

- (a) No cemeteries are allowed.
- (b) No recreational vehicle parks are allowed.
- (c) Accessory dwellings are permitted by right in residential districts, provided they do not exceed 60% of the size, in square feet, of the principal residence.
- (d) The required side yards in the "RSF-2, Single Family" district may be reduced to 3-feet on one side and 10-feet on the other side provided a minimum of 13-foot separation remains between buildings.

Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the Baldwin County Zoning Ordinance. These standards are to be considered when a variance request is being reviewed.

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

The subject property is currently unoccupied. The property adjoins County Road 1 to the north east. County Road 1 is a county maintained paved road. The adjoining properties to the north and south are residential. The property is 50-feet wide and approximately 111-feet deep. The approximate square footage is 5550 square feet. The required minimum lot area for the RSF-2 zoning designation is 15,000 square feet while the minimum lot width at the building line is 80-feet. As a result, the lot is nonconforming. However, due to the

fact that the property is a lot of record, which was pre-existing at the time zoning was adopted; it may be used as a building site, but must conform to all zoning requirements, with the exceptions of square footage and lot width.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

In addition to the fact that the lot is nonconforming, several topographic conditions affect buildable area on the subject property.

1.) Excessive Right-of-Way

The subject property is located in the Jubilee Point Subdivision. The right-of-way for this stretch of County Road 1 is 230-feet, where other sections of County Road 1 have a more normal right-of-way which ranges from 80 to 100-feet. As a result, the depths of lots in the Jubilee Point area are reduced which in turn decreases buildable area. A substantial number of variances which have been considered and approved in Planning 26 are a direct result of the 230' right-of-way. This is especially true with regard to rear setbacks. Variances which allowed rear setbacks ranging anywhere from 20-feet, to a zero lot line, as with the case at hand, have been approved depending on the needs of the particular applicant.

2.) V-Zone Setback

This lot is located in a VE Zone which is also known as the Coastal High Hazard area. The VE Zone extends from offshore to an inland limit based on mapping criteria. FEMA has established numerous standards intended to minimize storm surge impacts in these sensitive areas. The most important requirements relate to finished floor elevations and other construction standards including foundation design and enclosures. These standards are regulated by the Building Inspection Department. With regard to setbacks, the FEMA regulations only state that a structure should be located landward of the reach of mean high tide. Typically, mean high tide is certified at a bulkhead. However, it can actually be located further out in the water and will periodically change due to the seasonal nature of tides. In the case at hand, the applicant has requested a front setback of 34-feet, where a setback of 50-feet would normally be required. The site plan actually indicates a setback of 30-feet, but this includes 4-feet of uncovered stairs, which would be allowed. The majority of the proposed construction would be a porch area, with only 2-feet of the actual dwelling being built within the setback. Although less common than rear setback variances, several setback variances on the Bay side of properties have been approved.

3.) Erosion

Many of the lots along County Road 1 have suffered from shore erosion on Mobile Bay. In the case at hand, the Revenue Commission appraisal record indicates that the depth of the lot is 152-feet. Based on the current survey, however, the depth has been reduced to approximately 111-feet.

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

As stated previously, the purpose of this request is to allow for the construction of a single family dwelling which is permitted by the RSF-2 zoning.

4.) The granting of this application 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 Baldwin County.

No adverse impacts.

5.) Other matters which may be appropriate.

Lots on County Road 1 are subject to numerous topographic as well as area and dimensional issues which make building difficult. This is particularly true of rear setbacks in the Jubilee Point area. Staff has examined ways to address these issues, but under the current ordinance, the primary means by which property owners may obtain relief is through the variance process.

Staff Comments and Recommendation

As stated previously, the applicant is requesting a six (6) month extension of the previously approved variance to allow for the construction of a new single family dwelling. The reason given for the extension request is that additional time is needed in order to obtain financing. The zoning requirements at issue are the rear (road side) setback and front (water side) setback. With regard to the rear setback, the applicant has proposed constructing the dwelling to the rear property line, which would be a variance of 30-feet. For the front setback, a variance of 16-feet has been requested. This would provide a setback of 34-feet. Extension requests are not public hearing items and are routinely approved by the Boards when requested.

Staff recommends that Case No. V-100013, Quinely Property, be **EXTENDED** for a period of six (6) months from the date of original approval (October 11, 2010).*

* A majority vote of the members present will be necessary to approve this request.

GENERAL NOTES {By-laws}

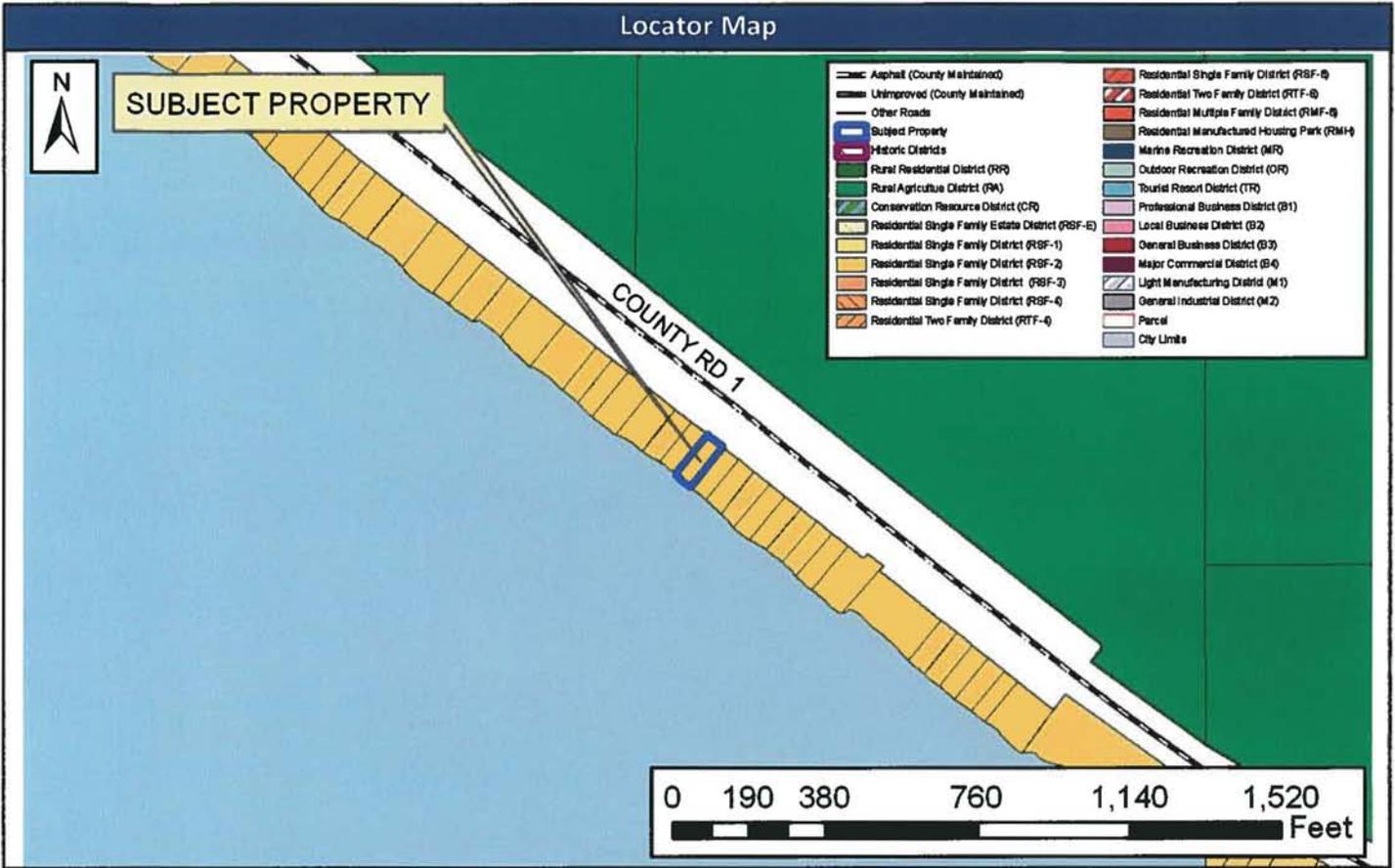
Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

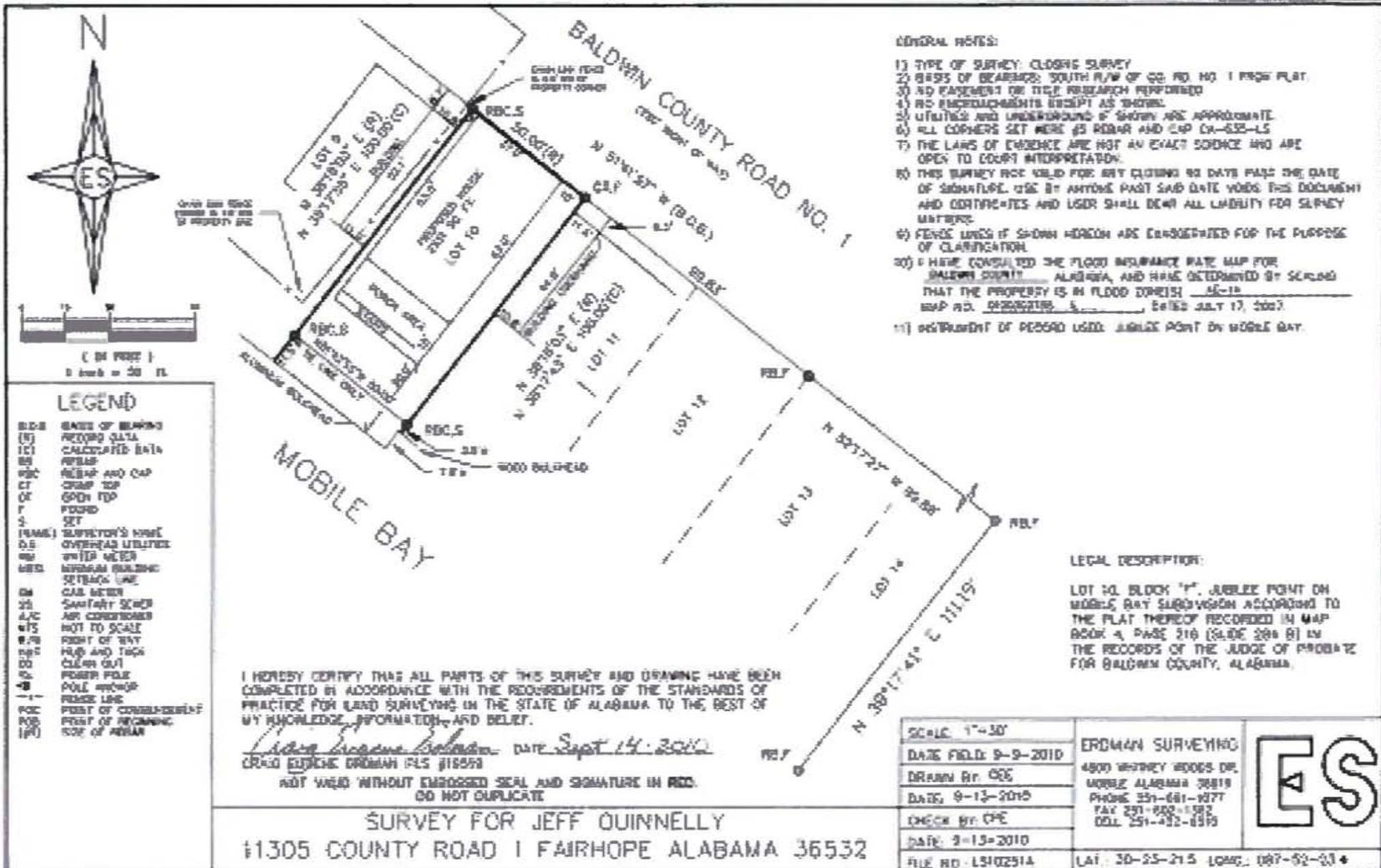
Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted and the conditions imposed by the Zoning Ordinance are adhered to.

Unless otherwise specifically stated by the Board, a variance authorized by the Board shall expire if the applicant fails to obtain appropriate permits pursuant thereto within six (6) months and construction must begin from the date of authorization of the variance.

Property Images









Baldwin County Planning & Zoning Department County Commission District #2

Board of Adjustment Staff Report

Case No. V-110007

Glenday Property

Variance to Allow Accessory Structure in Required Front Yard

March 14, 2011

Subject Property Information

Planning District: 26
Study Area: 2
Physical Address: 16989 Scenic Hwy 98
PID: 05-56-03-31-0-000-018.000
Zoning: RSF-1, Single Family District
FLU: Coastal Zone District
Flood Zone: VE/AE
Applicant: Doug Ward
 16925 State Highway 181
 Fairhope, AL 36532
Owner: Kay Giddens Glenday
 P.O. Box 182
 Point Clear, AL 36564
Lead Staff: Vince Jackson, Planning Director
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning	Adjacent FLU
North	Residential	RSF-1 and RSF-2	Coastal Zone District
South	Residential	RSF-1	Coastal Zone District
East	Commercial	B-2	Conservation District
West	Mobile Bay	N/A	N/A

Summary and Recommendation

The applicant is requesting a variance to allow for the construction of an accessory structure (gazebo and sun deck). This structure would eventually be attached to a walkway which would lead to a proposed wharf. The variance request is to allow for the proposed accessory structure to be constructed within the required front setback on a waterfront lot.

Staff sees no major issues with this request and recommends that Case No. V-110007, Glenday Property, be **APPROVED** based on the comments contained herein.*

**A majority vote of the members present will be necessary to approve this request.*

Section 4.2 RSF-1, Single Family District

4.2.1 *Generally.* This zoning district is provided to afford the opportunity for the choice of a low density residential environment consisting of single family homes on large lots.

4.2.2 *Permitted uses.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses shall be permitted:

- (a) The following general industrial uses: extraction or removal of natural resources on or under land.
- (b) The following transportation, communication, and utility uses: water well (public or private).
- (c) The following agricultural uses: Silviculture.
- (d) Single family dwellings including manufactured housing and mobile homes.
- (e) Accessory structures and uses.
- (f) The following institutional use: church or similar religious facility.

4.2.3 *Conditional uses.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following uses and structures designed for such uses may be allowed as conditional uses:

- (a) Outdoor recreation uses.
- (b) The following institutional uses: day care home; fire station; school (public or private).
- (c) The following general commercial uses: country club.

4.2.4 *Special exception.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, the following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see *Section 13.11: Bed and Breakfast Establishments*).

4.2.5 *Area and dimensional ordinances.* Except as provided by *Section 2.3: Establishment of Zoning in Planning Districts*, *Section 12.4: Height Modifications*, *Section 12.5: Yard Requirements*, *Section 12.6: Coastal Areas*, *Section 12.8: Highway Construction Setbacks*, *Section 18.6 Variances*, and *Article 20: Nonconformities*, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35-Feet
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

The subject property is a slightly irregular parcel with a width of 260-feet and a depth of 690-feet. According to the land use analysis, the property is currently occupied with one dwelling and one accessory structure. It adjoins Scenic Highway 98 to the east. Scenic Highway 98 is a county maintained paved road. The adjoining properties are residential.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

The property is located on Mobile Bay within the VE, Coastal High Hazard Flood Area. The required front setback in a VE zone is 50-feet from the reach of mean high tide. This setback is the zoning requirement at issue with this variance request. The normal front setback under the RSF-1 zoning designation is 30-feet. In addition, it should be noted that the subject property is located in the Point Clear Historic District.

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

RSF-1 is intended for single family dwellings which is the use of this property. The proposed gazebo and sun deck structure would be accessory to the principal use. Based on the zoning ordinance, an accessory structure is defined as a subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. Except as provided in *Section 10.4, Wetland Protection Overlay District*, bulkheads, fences, walls, retaining walls, fountains, trellises, pergolas, air conditioner platforms, walkways and similar features which provide a decorative, security or support function shall not be considered accessory structures for purposes of these zoning ordinances.

4.) The granting of this application 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 Baldwin County.

No adverse impacts.

5.) Other matters which may be appropriate.

As stated previously, the applicant is requesting a variance to allow for the construction of an accessory structure in a required front yard on a waterfront lot. The desire to avoid removing a large tree has been cited as a justification for this request. According to Section 13.1.2 of the zoning ordinance, accessory structures are required to be located in a side or rear yard and may have a setback of 5-feet from the side or rear property lines. Section 13.1.2(b) states that an accessory structure on a waterfront lot may be located between the principal dwelling and waterfront property line, but not within the required front yard setback. In the case at hand, the required front setback is 50-feet from the reach of mean high tide on Mobile Bay. In conclusion, it could be argued that this structure would serve a purely decorative function and would therefore be exempt from the definition of structures and setback requirements.

The applicant is requesting a variance to allow for the construction of an accessory structure (gazebo and sun deck). This structure would eventually be attached to a walkway which would lead to a proposed wharf. The variance request is to allow for the proposed accessory structure to be constructed within the required front setback on a waterfront lot.

Staff sees no major issues with this request and recommends that Case No. V-110007, Glenday Property, be **APPROVED** based on the comments contained herein.*

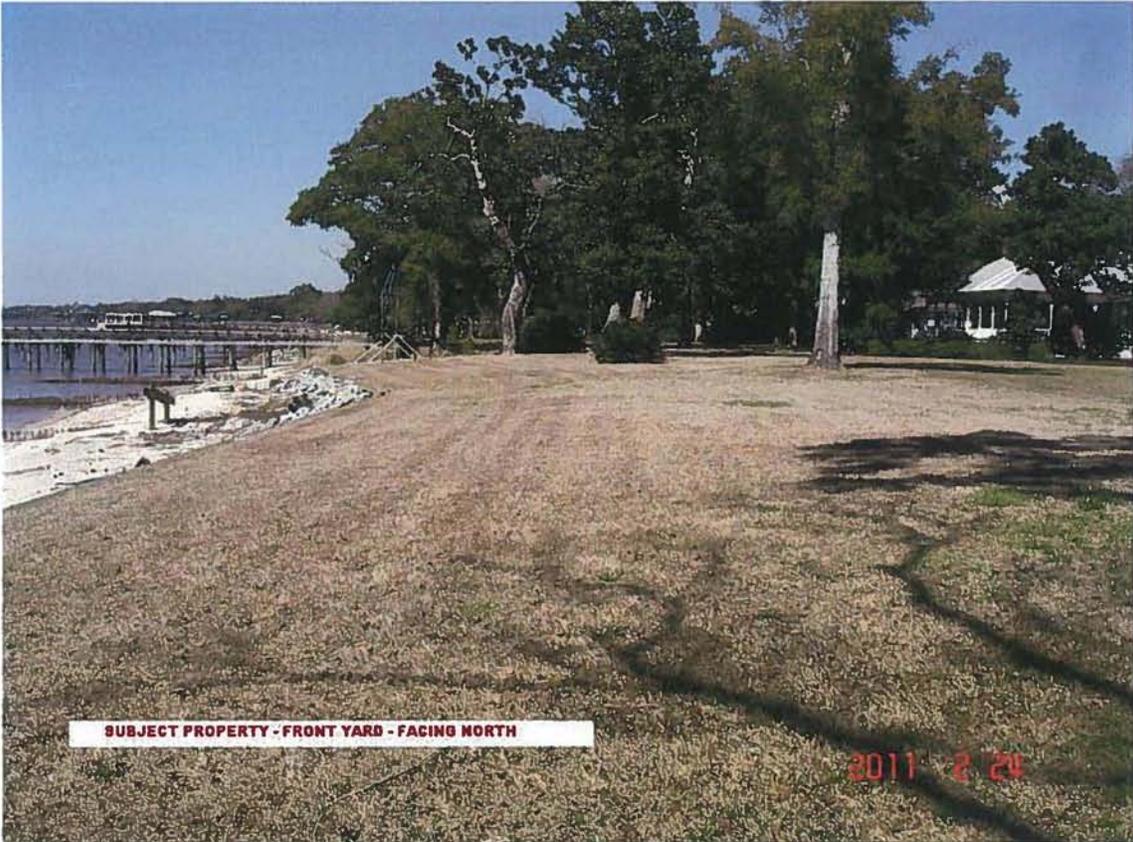
**A majority vote of the members present will be necessary to approve this request.*

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted and the conditions imposed by the Zoning Ordinance are adhered to.

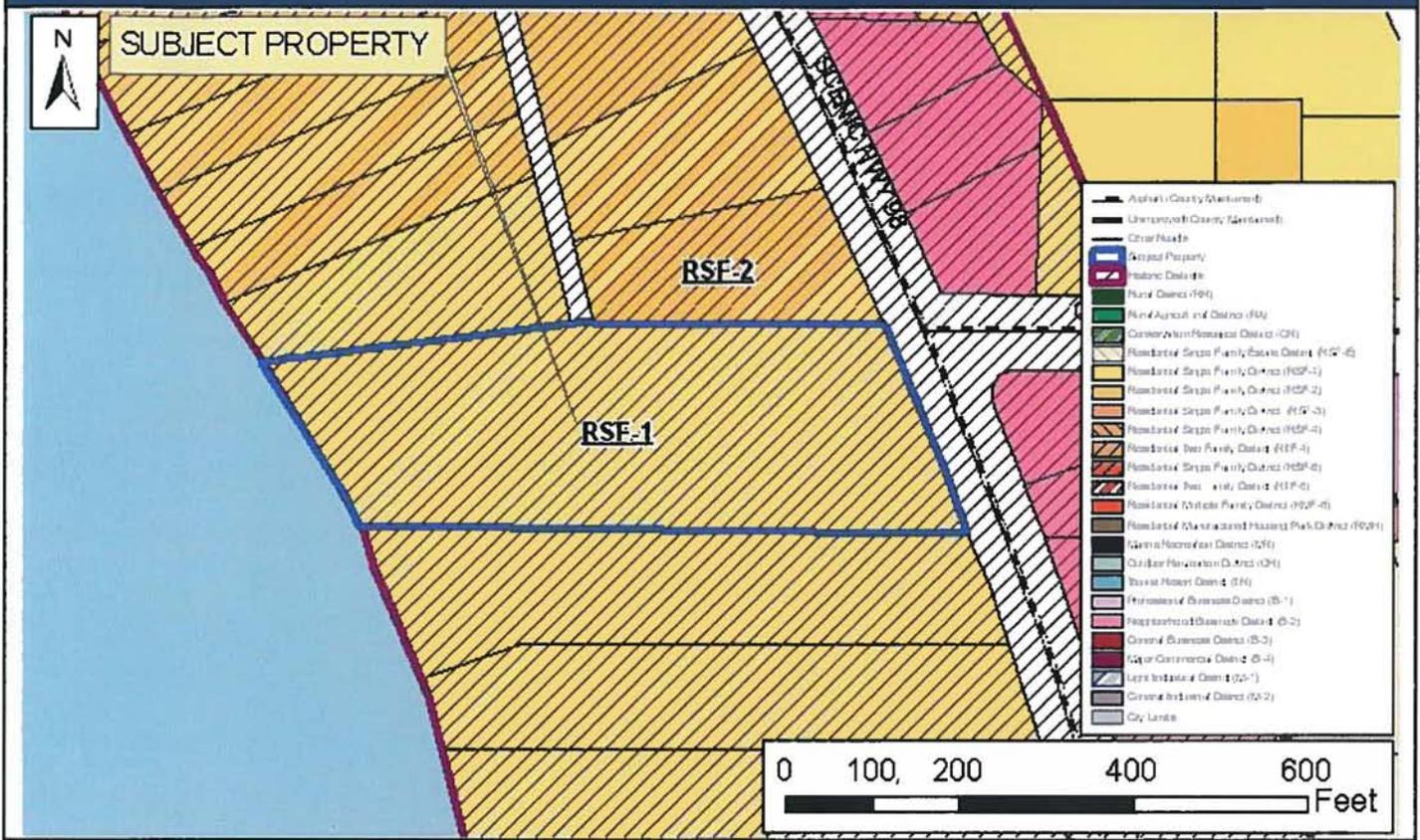
Unless otherwise specifically stated by the Board, a variance authorized by the Board shall expire if the applicant fails to obtain appropriate permits pursuant thereto within six (6) months and construction must begin from the date of authorization of the variance.



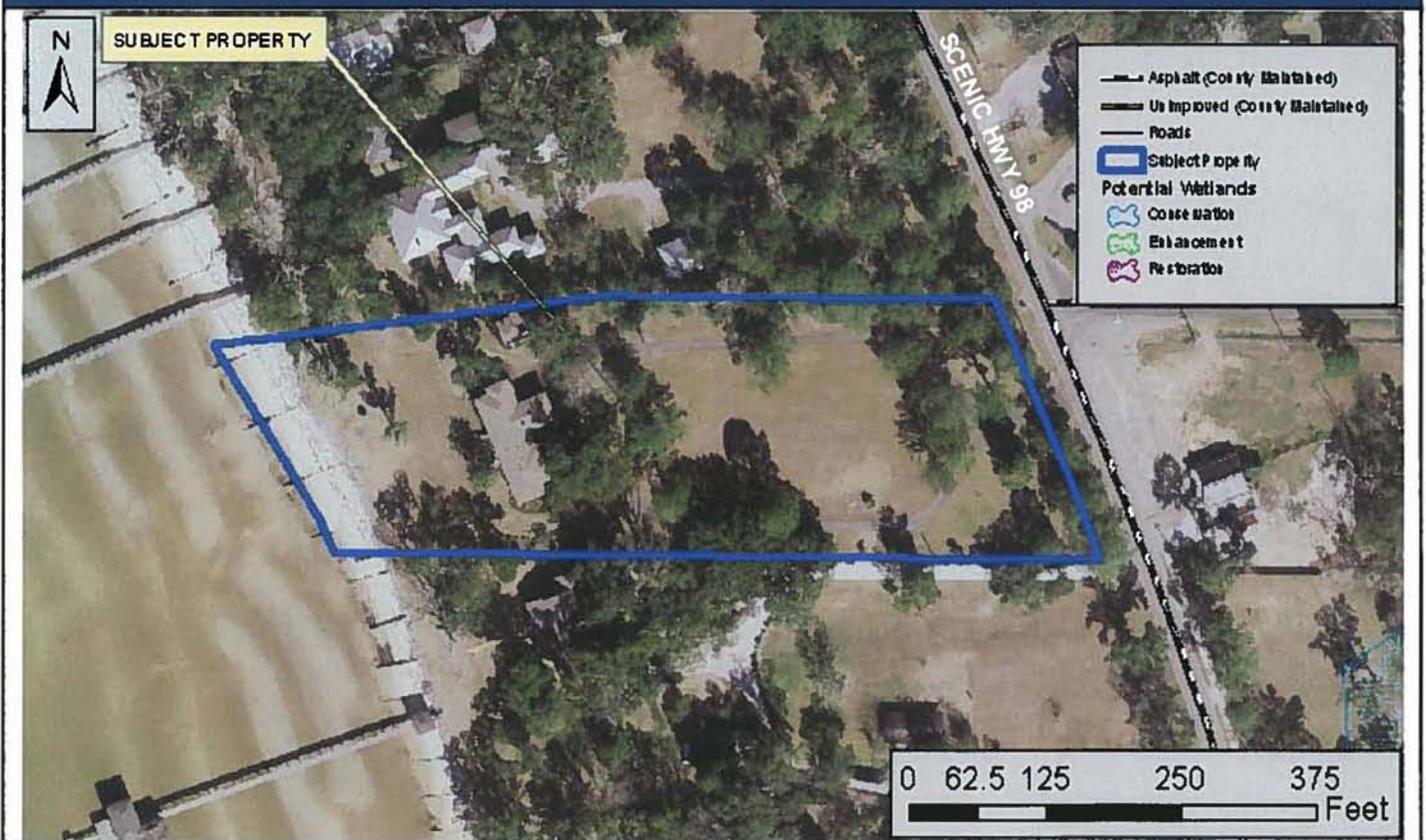




Locator Map



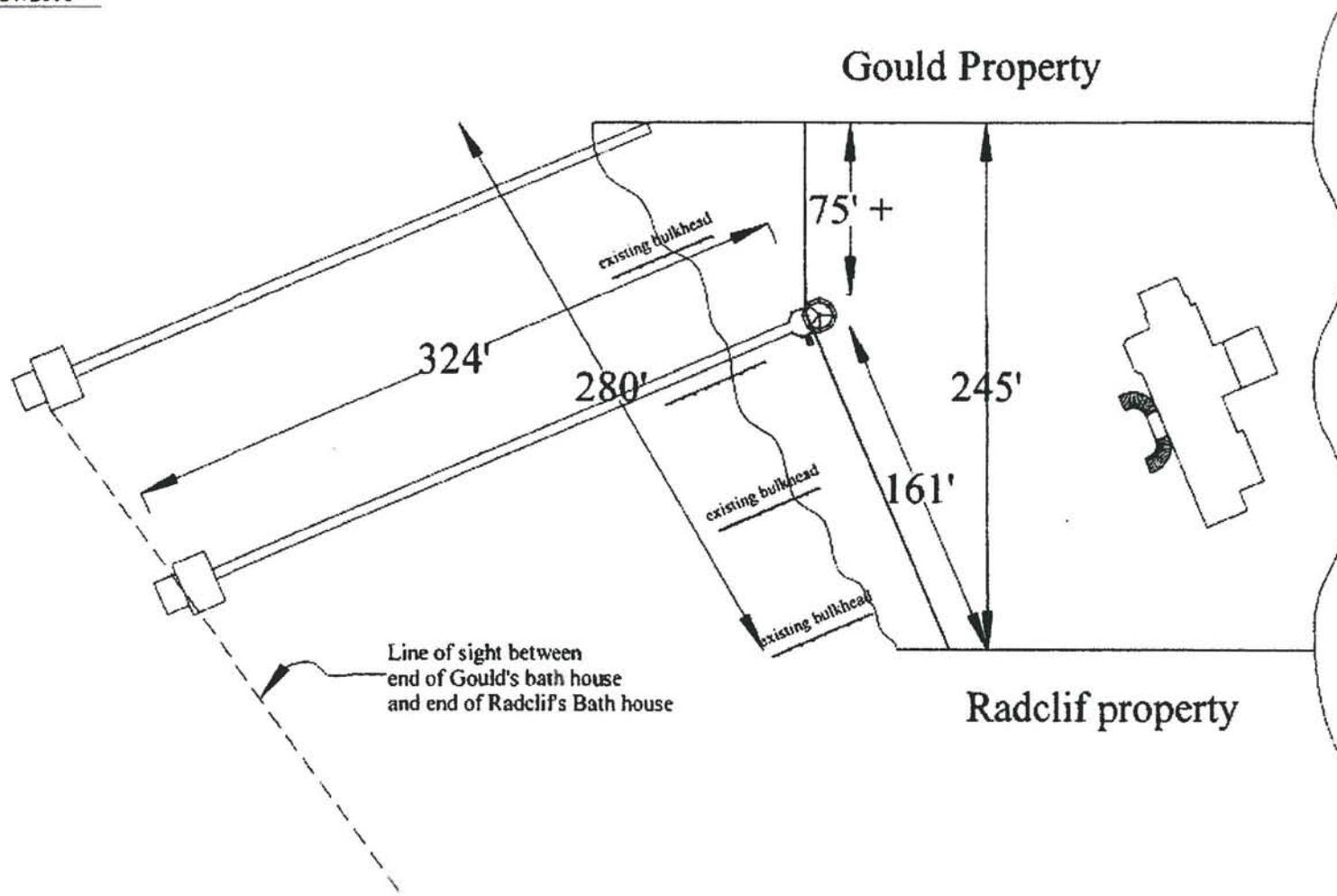
Site Map



Murray Thames Contractor Inc.
405 Bayshore Ave
Mobile, AL 36607
215-471-4047

Page 1

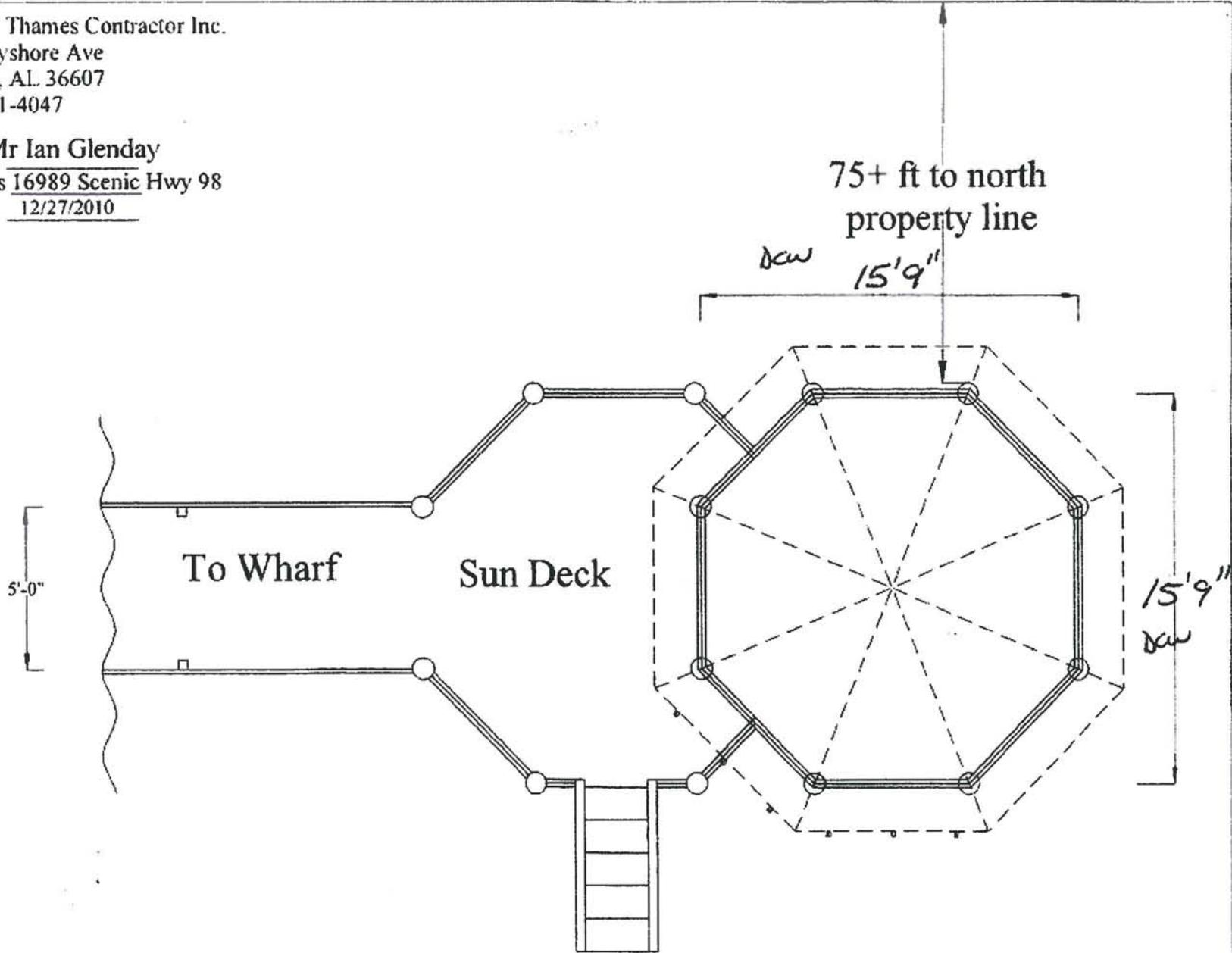
Job Mr Ian Glenday
Address 16989 Scenic Hwy 98
Date 12/27/2010



Scale
NO Scale

Murray Thames Contractor Inc.
405 Bayshore Ave
Mobile, AL 36607
215-471-4047

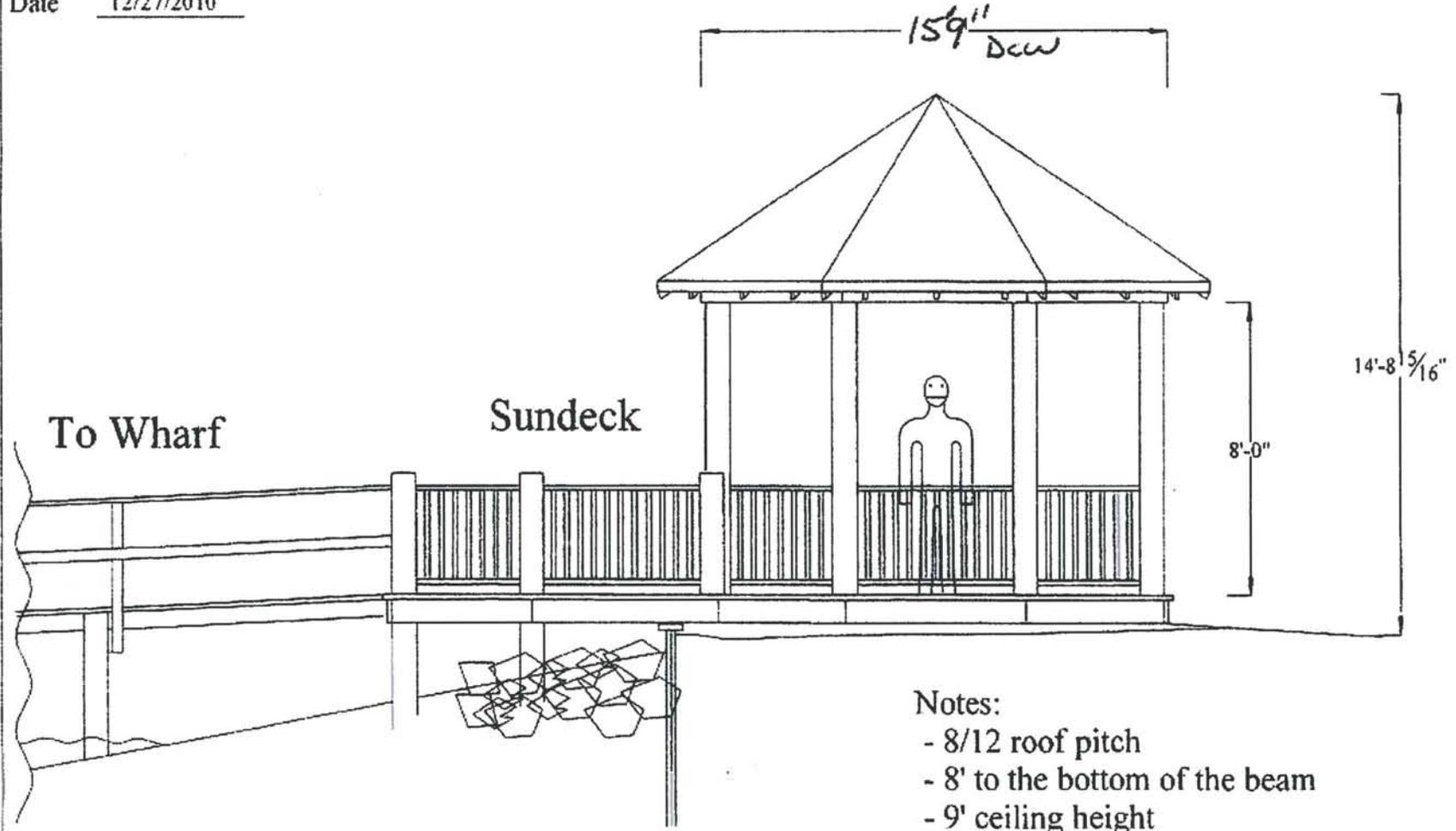
Job Mr Ian Glenday
Address 16989 Scenic Hwy 98
Date 12/27/2010



Murray Thames Contractor Inc.
405 Bayshore Ave
Mobile, AL 36607
215-471-4047

Job Mr Ian Glenday
Address 16989 Scenic Hwy 98
Date 12/27/2010

North - South Elevations



- Notes:
- 8/12 roof pitch
 - 8' to the bottom of the beam
 - 9' ceiling height