

**MUNICIPALITY OF ANCHORAGE
BOARD OF ADJUSTMENT APPEAL NUMBER 2024-02 FROM
ANCHORAGE PLATTING BOARD RESOLUTION NO. 2024-007, FINDINGS OF FACT AND FINAL
DECISION IN PLATTING BOARD CASE NO. S12765**

BOARD OF ADJUSTMENT FINDINGS AND CONCLUSIONS

WHEREAS on January 23, 2023, Ms. Elaine Mills submitted an application for a preliminary plat to the Anchorage Planning Department, proposing to subdivide one lot into three (the “Mills Subdivision”).¹

WHEREAS on May 3, 2023, the Platting Board issued its written findings of fact and final decision, Resolution 2023-008, approving the Mills subdivision, subject to nine conditions.²

WHEREAS Robert Brown, Carol Ashlock, and Bonnie Cudnohufsky appealed the Platting Board’s May 3, 2023, decision to the Board of Adjustment, which remanded the matter back to the Platting Board “for further consideration to determine whether the Mills Subdivision complies with street-width code requirements.”³

WHEREAS on May 1, 2024, the Platting Board held a hearing to consider the remand and on July 17, 2024, due to a Motion to Renew, held an additional hearing to consider the remand.⁴

WHEREAS on September 4, 2024, the Platting Board issued a written decision, approving the Mills Subdivision.⁵

WHEREAS Robert Brown, Carol Ashlock, and Bonnie Cudnohufsky (collectively Appellants) appealed the September 4, 2024, Platting Board Decision to the Board of Adjustment.⁶

WHEREAS on April 28, 2025, the Board of Adjustment deliberated and decided the appeal at a meeting open to the public and pursuant to Title 21.

NOW, THEREFORE, BE IT RESOLVED, the Board of Adjustment adopts the following Findings and Conclusions:

¹ R.00116.

² R.0034, 0042, 0089-0092.

³ R.0044 (Board of Adjustment Appeal No. 2023-01, Findings and Conclusions, dated Feb. 9, 2024); *see also* R.0011.

⁴ R.0011; T.0021-24.

⁵ R.013.

⁶ R.002-3.

FINDINGS

1. As mandated by code, during the April 28, 2025 hearing, the Board of Adjustment considered the appeal on the basis of the record before the Platting Board, the notice of appeal, the briefs, and the law.⁷

2. The February 9, 2024, Board of Adjustment Decision remanded one issue to the Platting Boarding: “whether the Mills Subdivision complies with street-width code requirements.”⁸ Specifically the February 9, 2024, Board of Adjustment Decision instructed the Platting Board to “consider: the Falsey Letter; the conflicting evidence regarding the section line easement’s validity; and whether Bonnielaine Road complies with street-width code requirements.”⁹

3. The Board of Adjustment found the Platting Board considered on remand the contradictory evidence regarding the section line easement and whether Bonnielaine Road complies with code requirements.¹⁰

4. The Board of Adjustment found there is no dispute that for the Mills Subdivision to be code compliant Bonnielaine Road requires “a minimum right-of-way width of 50-60 feet.”¹¹

5. AMC 21.08.040A.3. permits the Platting Board to “approve the dedication of a half-street only when the other half of the street has been dedicated or when the platting authority reasonably anticipates that the other half of the street will be dedicated.”¹²

6. The Board of Adjustment found the Mills Subdivision dedicated a 25-foot right-of-way within the Mills Subdivision for Bonnielaine Road.¹³

⁷ AMC 21.03.050A.11.a.

⁸ R.0044 (Board of Adjustment Appeal No. 2023-01, Findings and Conclusions, dated Feb. 9, 2024).

⁹ *Id.*

¹⁰ T.0033-35, 0040-42, 007-011, 015-16; R.0011-12.

¹¹ R.00107.

¹² AMC 21.08.040A3.

¹³ R.0037, 0039, 0091, 00107.

7. The Board of Adjustment found the Platting Board lacks legal authority to adjudicate whether a section line easement exists and, thus, the Platting Board improperly stated it “determined that a 33-foot section line easement does exist.”¹⁴

8. But the Board of Adjustment found, pursuant to AMC 21.03.050A.11.c, the Platting Board found “by necessary implication” it “reasonably anticipate[d] the other half of [Bonnielaine Road] will be dedicated” through the section line easement.¹⁵ Indeed the September 4, 2024, Platting Board Decision stated: “The right-of-way dedicated 25 feet on the Mills property and the adjacent property section line easement combine to give [Bonnielaine Road] the required width.”¹⁶

9. The Board of Adjustment found the record contained substantial evidence supporting the Platting Board’s implicit finding that it was reasonable to anticipate the other half of Bonnielaine Road will be dedicated through a section line easement, permitting the Mills Subdivision to meet street-width requirements and approval criteria.¹⁷

CONCLUSIONS

1. Neither the Platting Board nor the Board of Adjustment have authority to determine whether a section line easement validly exists; rather adverse claims about title to property are resolved under AS 09.45.010. As a result, neither the Platting Board’s September 4, 2024, Decision nor this decision by the Board of Adjustment have any effect on the legal validity of any section line easement.

2. The September 4, 2024, Platting Board Decision is modified as follows: provision B is deleted in its entirety.

¹⁴ R.012; *see* AS 09.45.010 (quiet title actions) and AMC 21.02.050A (outlining the six matters over which the Platting Board has “[d]ecision-making authority”).

¹⁵ *See* AMC 21.03.050A.11.c (Board of Adjustment must defer to Platting Board’s factual findings, even those “adopted . . . by necessary implication”); AMC 21.08.040.A.3 (permitting subdivision to dedicate only half of a street when the Platting Board “reasonably anticipates that the other half of the street will be dedicated”).

¹⁶ R.0012.

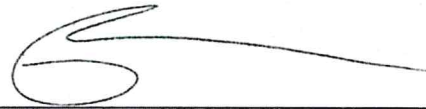
¹⁷ *See e.g.* R.00131-136 (January 6, 2023, State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, Survey Section, Section-Line Easement-Summary of Research); R.0011-12; T.043-44.

3. The Platting Board "reasonably anticipated" the other half of Bonnielaine Road would be dedicated through a section line easement and thus the Mills Subdivision, and specifically Bonnielaine Road, meet street-width code requirements.¹⁸

DECISION

1. This appeal was heard in accordance with AMC 21.03.050.
2. The Board of Adjustment modifies the Platting Board's September 4, 2024, Decision by deleting provision B in its entirety. All remaining provisions of the Platting Board's September 4, 2024, Decision are affirmed.
3. Pursuant to AMC 21.03.050A.12.c. this Board of Adjustment decision is a final decision with respect to all issues involved in the case and the parties have 30 days from the date of service of this decision to appeal to the superior court.

ADOPTED by the Board of Adjustment this 8th day of May 2025.



Michael Rose, Chair
on his own behalf and on behalf
of Board of Adjustment Members
Carl Propes and Janet Mueller

¹⁸ AMC 21.08.040A.3.

Certificate of Service:

I hereby certify that on the 8th day of May 2025 a true and correct copy of the foregoing document was served by mail or e-mail on each of the following:

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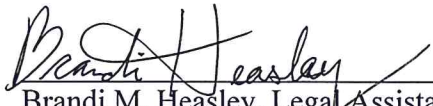
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