

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF JUNE 7, 2010 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Reid Cummings, Chairman  
William Guess  
Vernon Coleman  
Sanford Davis  
Adam Metcalf  
Russell Riley\*  
\*supernumerary member

**MEMBERS ABSENT**

J. Tyler Turner\*

**STAFF PRESENT**

Bert Hoffman, Planner II  
Caldwell Whistler, Planner I  
Derek Peterson, Planner I  
Sondi Galanti, Secretary I

**OTHERS PRESENT**

John Lawler, City Attorney  
David Roberts, Traffic Engineering  
David Daughenbaugh, Urban Forestry  
Gerard McCants, Urban Forestry

The notation *motion carried unanimously* indicates a consensus, with the Chairman voting.

**CALL TO ORDER:**

Chairman Cummings advised all in attendance as to the policies and procedures of the Board of Zoning Adjustment. He noted the number of members present constituted a quorum with the supernumerary member voting and called the meeting to order.

**HOLDOVERS:**

**#5612/3972**

**(Case #ZON2010-00953)**

**Joseph Payne**

**2655 Airport Boulevard**

(Southeast corner of Grant Street and Airport Boulevard)

**Use and Parking Ratio Variances to allow a 2,864 square-foot professional office building in an R-1, Single-Family Residential District with 8 parking spaces; the Zoning Ordinance requires a minimum B-1, Buffer Business District for professional offices, and 10 parking spaces for a 2,864 square-foot office building.**

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Mr. Metcalfe recused himself from discussion and voting on the matter.

Nathan Friedlander, Attorney at Law, 107 St. Francis Street, Mobile, AL, spoke on behalf of the application and made the following points:

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- A. the applicant stated that high traffic counts and commercial property in the vicinity make the property unsuitable for single-family residential development;
- B. in the application's narrative, the applicant stated on several occasions that a reason for the use variance is that the site is surrounded by right-of-way;
- C. the applicant submitted a revised proposal for development on the site in an attempt to address some concerns of staff and neighboring property owners;
- D. the applicant now proposed a one-story, 1,754 square-foot brick building with eight (8) angled parking space, and 1,754 square-foot professional office building required a minimum of five (5) parking spaces; as the applicant proposed eight spaces, the parking ratio variance was no longer needed;
- E. the applicant had stated that the reduction in height was an attempt to alleviate privacy concerns for the adjacent property owner who had a pool, with the applicant being amenable to constructing a wooden privacy fence to further buffer the property; and,
- F. stated that the amount of noise coming from Airport Boulevard would make the site unsuitable for residential use.

Mr. Coleman asked where the entrances and exits were to be located.

Mr. Guess questioned whether access to Airport Boulevard would be possible without damaging the live oak trees located in the property's proposed access way.

Mr. Riley questioned where they would put the vegetative buffer on Grant Street, within the City's right-of-way.

Mr. Coleman questioned the barrier at the end of Grant Street, and whether Grant Street could be used as a point of access for the property.

Mr. Roberts, with City Traffic Engineering, said Grant Street was overgrown and not suitable for use at this time, but could be available for private use only.

Mr. Guess questioned the BOA recommendations versus the Planning Commission recommendations, which were the following:

- A. BOA Staff reports stated the original recommendation for denial stood. It should also be noted that due to the applicant's revised site plan, the parking ratio variance request was no longer needed, and should be withdrawn; and,
- B. The Planning Commission ultimately made a recommendation to the City Council to rezone the property to B-1, Buffer Business District.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for discussion.

Mr. Riley wanted more of a vegetative buffer before approving.

Mr. Lawler says the City could not build the fence.

Mr. Daughenbaugh, Urban Forestry, stated the following points:

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- A. additional tree plantings would be required along Grant Street;
- B. amend the recommendations to provide a vegetative bugger in 10' right-of-way;
- C. wanted to see a 6' wood privacy fence along Grant Street not to extend into the parking area;
- D. limited to a one story brick building; and,
- E. wanted a 10' setback as proposed.

The Chair, on behalf of the Board, advised the applicant that a Sidewalk Waiver application to the Planning Commission would be required, if the applicant did not wish to build sidewalks along the adjacent streets. Then, hearing no further discussion, the Chair opened the matter for a motion.

A motion was made by Mr. Davis, with second by Mr. Coleman, to approve the Use and Setback variances to allow construction of an office building with a 10-foot setback subject to the following conditions:

- 1) Limited to a one-story building with brick façade, as submitted in the revised information;**
- 2) Provision of a 6-foot high wooden privacy fence at the 10-foot setback line along the unopened portion of Grant Street, except within the parking area;**
- 3) Provision of an evergreen hedge and/or tree row within the 10-foot setback along the unopened portion of Grant Street, except within the parking area, to be coordinated with Urban Forestry;**
- 4) Full compliance with the Tree and Landscape requirements of the Zoning Ordinance, to be coordinated with Urban Forestry.**

The motion carried with Mr. Cummings abstaining.

**#5614**

**(Case #ZON2010-00961)**

**John Lunstrum**

**3808 Dauphin Island Parkway**

West side of Dauphin Island Parkway, 600'± South of Boykin Boulevard

**Use, Access/Maneuvering, and Parking Surface Variances to allow a tattoo parlor in a B-2, Neighborhood Business District, with less than 24' of access/maneuvering area, and gravel parking surface; the Zoning Ordinance requires a minimum B-3, Community Business District for a tattoo parlor, with 24' of access/maneuvering area and parking surface of asphalt, concrete, or an approved alternative paving surface.**

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

John Lunstrum, 3808 Dauphin Island Parkway, Mobile, AL, spoke on his own behalf and made the following points:

- A. that the gravel parking was pretty good;

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- B. stated that he was a very talented artist who used media to complete his art pieces, and had been to school and trained under the famous Craig Fraiser and Jeff Styles;
- C. stated that since he had completed school, he had moved into the building in question and remodeled one side as a studio to be able to do body art in the state of Alabama;
- D. the applicant further stated that he was under the impression that he needed to rezone the property to do body art;
- E. the applicant also stated that the body art funds his art work and schooling to better himself and become more well-known in the art world;
- F. the applicant stated that the business would operate from noon to 10:00 p.m. Monday-Saturday, and be closed on Sunday. The applicant also stated that the business would not be open after 11:00 p.m. more that two days a week;
- G. the applicant further stated that the tattoo parlor would not be as loud as the previous establishments such as mechanic and auto body shops. The operation would have a maximum of two body artists at a time, including the applicant, and stated that there would be no body piercer as of the official opening;
- H. the applicant stated that everything he did artistically could be covered under B-2 zoning except for the tattoo portion, and that he would not be selling retail, just custom art work and designs;
- I. the applicant acknowledged that he was around a few churches and would retain their trust by being closed on Sunday;
- J. the applicant also stated that he had designated the workspace next to the body art section for his personal art venues such as, glass etching, airbrushing, custom paintings, and mural designs; and
- K. the applicant pointed out that he was 29 years old, very talented and just needed a shot at this business because he had worked so hard at it and had exhausted his savings to make his dreams come true. The applicant further stated that he would comply with any regulation the Board required him to meet.

Mr. Metcalfe questioned what the make-up of the parking area surface was.

Mr. Lunstrum replied that it was a combination of asphalt and gravel surface 10' from Dauphin Island Parkway.

Mr. Metcalfe commented that while he was not opposed to the use, he felt that the access should be modified to limit curb-cuts onto Dauphin Island Parkway. He said the surface should be improved with paving thus he would not support the Surface Variance request.

The Chair concurred.

Mr. Guess questioned changes to access, if approved, and what changes would be required.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

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A motion was made by Mr. Cummings, with second by Mr. Guess, to approve **the Use variance to allow a tattoo parlor, but the other variance requests were denied: the applicant is to bring the site into compliance, including the provision of a paved parking area with striping, tree and landscape compliance, and coordination with Traffic Engineering to modify access to/from Dauphin Island Parkway (which may include the closing of existing curb-cuts). The applicant will be required to obtain permits for the required site improvements.**

The motion carried unanimously.

**#5615**

**(Case #ZON2010-00964)**

**O'Charley's Restaurant (Trisha Wise, Agent)**

Southeast corner of Schillinger Road South and Old Government Street Road.

**Sign Variance to allow a 68'-6" high freestanding sign at a single-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows a maximum height of 35' for a freestanding sign for a single-tenant commercial site in a B-3, Community Business District.**

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

The Chair recused himself from discussion and voting on the matter, at which time Mr. Guess chaired the discussion.

John Moran, a representative of O'Charley's, 725 Schillinger's Rd., Mobile, AL, spoke on behalf of the application and made the following points:

- A. the applicant stated that one of the most notable reasons to seek the variance was that the size of the existing pipe at the 35' height limit was so large that a compliant sign cabinet would look disproportionate and detract from the identity of the restaurant;
- B. he further stated that to remove the existing pole and foundation would cause hardship due to the enormous cost and disruption of business it would create, and that surrounding buildings and elevation changes would make visibility of a 35' high sign difficult; and
- C. he also stated that problems had been encountered trying to mount compliant 200 square-foot signs on existing poles at the 35' overall height.

Mr. Riley asked if there were any changes since the last meeting.

Mr. Moran said there were none.

Mr. Guess said that trees would obstruct sign visibility.

Mr. Metcalfe questioned Mr. Moran referencing what he would do if the application were denied.

Mr. Moran said they would likely leave the existing sign.

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Mr. Riley questioned the hardship shown.

Mr. Moran said that the visibility was the hardship.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Coleman, with second by Mr. Riley, to deny **the Height variance.**

The motion carried with Mr. Davis abstaining.

**EXTENSIONS:**

**#5572**

**(Case #ZON2009-02583)**

**Jeff Quinnelly**

East side of North McGregor Avenue, 170'± South of Springhill Avenue.

**Vehicular Access Variance to allow the construction of a 16' wide drive in a Traditional Center District; the Zoning Ordinance requires a minimum access width of 24' for developments invoking the Traditional Center District overlay.**

The Chair announced the matter, advising it had been recommended for denial for the 1 year extension but that it was recommended for approval for a 6 month extension.

No one was present to speak for or against the application.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Guess, with second by Mr. Coleman, to approve **the extension for 6 months.**

The motion carried unanimously.

**PUBLIC HEARINGS:**

**#5619**

**(Case #ZON2010-01189)**

**Florida Certified Sign Erectors**

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**41 West I-65 Service Road North**

(Southwest corner of West I-65 Service Road North and College Lane South).

**Sign Variance to allow a total of four wall signs for a single tenant in a multi-tenant commercial site in a B-2, Buffer Business District; the Zoning Ordinance allows one wall sign per tenant in a multi-tenant commercial site in a B-2, Buffer Business District.**

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

The following people spoke on behalf of the application:

- Jim Patterson, Attorney, Varnis and Bowling, 204 S. Royal St., Mobile, AL 36602; and,
- Bubba O'Gwynn, Area Executive with BB&T, 41 W. I-65 Service Rd. North, Mobile, AL 36608.

They made the following points:

- A. the applicant had recently assumed the property through FDIC seizure and wanted to replace existing signage, while adding one additional wall sign for complete coverage for all elevations of the building;
- B. the applicant stated that the recent seizure of the old bank had confused many customers, and the removal of the existing signage without replacements would only complicate matters, as it would indicate that the bank no longer exists; and,
- C. the applicant further stated that the mere size of the building made it more visible to passing motorists; thus, the additional signage was necessary for identification.

The Chair questioned the free standing sign and if it met the requirements of the Zoning Ordinance.

The Chair questioned the allowable signage and if the applicant needed the fourth wall sign fronting onto Du Rhu Drive.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Davis, to approve **the Sign variance for three signs only, to be located on the North, East and South facades: no sign will be allowed on the West façade, fronting Du Rhu Drive.**

The motion carried unanimously.

**#5620**

**(Case #ZON2010-01240)**

**Signal Ship Repair, LLC**

**601 South Royal Street**

(Northeast corner of South Royal Street and Elmira Street).

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**Tree Planting and Landscape variance to allow no tree plantings or landscaping; the Zoning Ordinance requires 11,786 square foot total site landscaping (with 7,022 square foot of that being in the front yard), and 26 overstory frontage trees for a 98,218 square foot lot with 816.82 linear feet of right-of way frontage in an I-2, Heavy Industry District.**

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Ray Harris, P.O. Box 1864, Mobile, AL 36633, spoke on behalf of the application and made the following points in favor of the applicant:

- A. stated that the concrete parking area was 10 inches thick and that it was a hardship to provide trees/landscaping because it would be hard to drill through the concrete;
- B. the applicant stated that the subject site was located in zoning district I-2 and primarily consisted of heavy industrial businesses;
- C. the applicant further stated that the property was currently and historically had been used as a concrete parking facility for a shipbuilding and repair company.
- D. the applicant also stated that a modular office building was proposed as shown with the existing parking to remain;
- E. the applicant pointed out that the existing concrete parking was located in the front setback of South Royal and Elmira Street and that the paved roadway in South Royal Street was centered to the eastern side of the right-of-way placing it within 3.5 feet of the right-of-way line;
- F. the applicant further pointed out that these conditions left no green space to plant and maintain healthy trees; and,
- G. the applicant stated that the property had truck and heavy equipment traffic entering and exiting the facility, thus, making placement of trees in a protected location difficult.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Coleman, with second by Mr. Metcalfe, to approve **the Tree and Landscaping variance request.**

The motion carried unanimously.

**#5621**

**(Case #ZON2010-01250)**

**MYMS, Inc.**

**2908 Springhill Avenue**

(Northeast corner of Springhill Avenue and Union Avenue)

**Maneuvering Variance to allow the construction of a one way access way composed of two 18-inch wide asphalt strips with a 4-foot wide grass strip in between them with a total access way of 7 feet; the Zoning Ordinance requires a continuous width of 12- feet of**

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**asphalt, concrete or an approved alternative parking surface for a one-way access way in a B-3, Community Business District.**

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Charlie Christmas, Commercial Real Estate Broker & Developer, Christmas Properties, 5646 Bit & Spur Rd, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the application:

- A. stated that they would go to a 12' wide driveway instead of the asphalt strips; and,
- B. the applicant stated that because of the difficulty of exiting onto Springhill Avenue from the Southern parking lot, customers have begun driving over the required landscaping area to access the Northern parking lot and exit onto Union Avenue and access Springhill Avenue at the signal-controlled intersection.

Mr. Guess questioned the type of business it was and the frequency of customers.

Mr. Christmas said it was a beauty supply shop with numerous customers daily.

Mr. Coleman questioned the reasons for needing the variance.

Mr. Christmas said what was proposed for the variance had a much safer traffic flow.

Mr. Metcalfe said it was a clear hardship.

Mr. Guess motioned to add a vegetative strip.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

**A motion was made by Mr. Metcalfe, with second by Mr. Davis, to deny the Variance requesting the construction of two 18-inch asphalt strips to allow one way circulation; and recommended approval to the Planning Commission of the provision of a 12-foot wide paved driveway providing the same one-way circulation (with protection to the adjacent private sidewalk via bollards or landscaping), subject to the Planning Commission's approval of a new Planned Unit Development application.**

The motion carried unanimously.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED:**

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Chairman of the Board

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