

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF OCTOBER 3, 2011 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

William Guess, Chairman  
Vernon Coleman, Vice-Chairman  
Adam Metcalfe  
Jeremy Milling  
Russell Reilly\*  
\*supernumerary member

**MEMBERS ABSENT**

Sanford Davis  
J. Tyler Turner\*

**STAFF PRESENT**

Frank Palombo, Planner II  
Joanie Stiff-Love, Secretary II

**OTHERS PRESENT**

John Lawler, City Attorney  
Butch Ladner, Traffic Engineering  
George Davis, City Engineering

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

**CALL TO ORDER:**

Chairman Guess advised all in attendance as to the policies and procedures of the Board of Zoning Adjustment. He stated there were 4 regular members present constituting a quorum, and that Mr. Reilly, supernumerary member, would vote in place of Mr. Davis. He advised that it would require four members to vote in the affirmative to approve any variance and then called the meeting to order.

**HOLDOVERS:**

**#5699 / 5325**

**(Case #ZON2011-01701)**

**The Wooden Boat Ministry**

360 Rapier Avenue

(Northwest corner of Rapier Avenue and Texas Street)

**Use, Parking Ratio, Landscaping and Tree Planting Variances to allow an existing 3,255 square foot building to be used as a non-profit boat building operation with no on-site parking and no landscaping and tree plantings in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum I-1, Light Industry District for a boat building operation, eleven on-site parking spaces, that 12% of the site be landscaped with 60% landscaping within the front of the building line, and the planting of five overstory and two understory trees.**

The Chair announced the matter, advising the Use Variance had been recommended for denial; thereby, making the requests for Parking Ratio and Landscaping and Tree Planting Variances moot. He stated the applicant should address the Board regarding the subject at that time.

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Jonathan Stebbins, 2175 O'Rourke Dr., Mobile, AL, president of the Wooden Boat Ministry, spoke on behalf of the applicant, and made the following points in support of the application:

- A. noted at the last meeting, the Board wanted the applicant to address such things as noise, parking, and the community's opinions on the matter;
- B. regarding noise, the applicant had Modern Sounds and Communications' audio-engineer, Carlin Sheppard, do a decibel level test at all four corners of the building which showed 65 decibels with the doors and windows closed while running the two loudest pieces of equipment on site and showed 76 decibels with the doors open and the meter right in front of said doors while running the same and the City Noise Ordinance permitted up to 85 decibels in a residential area;
- C. regarding parking, stated there was minimal parking at the site so it had been decided to only allow mentors and two instructors to park on site;
- D. regarding parking, the applicant also contacted Crawford-Murphy Park, hearing back from Julius Shine and Janice Small giving the organization permission to park at the parking lot located at the end of Straight Street and closest to the location in question;
- E. stated any students who drove and were a part of the program could park at the park along Charity Lane as long as the gate was open as there were 76 regular parking spaces and 5 handicapped spaces located there;
- F. on August 25, 2011, a community meeting to discuss the matter was held at All Saints Episcopal Church with William Carroll, council person for the district, and five couples in attendance;
- G. a petition was taken to the August 25, 2011, meeting, however, it was forgotten and no signatures were obtained, however, that petition was later circulated through the community and 50 signatures in support were obtained and that petition was given to staff;
- H. since the initial petition was signed and turned in, additional signatures were gotten and they now had over 150 names in support from Oakleigh Garden District residents, with 80% of the residents located within 300 foot radius area signing the petition and the other 20% the applicant was unable to contact;
- I. there had been some who were very vocally against the project, however, after finding out more about the program, had since reversed their opinion, noting one James Mitchell; and,
- J. the applicant stated he had offered as a condition to keep the "at-risk" youth on site during lunch to help make such individuals as Mr. Mitchell more comfortable with the proposed project.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those 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 above referenced request, subject to the following conditions:

1. providing two parking spaces at the site for instructors/mentors;
2. obtaining a parking agreement with the City of Mobile for parking within Crawford-Murphy Park;
3. obtaining Planning Approval for the activity; and,
4. compliance with all other municipal codes and ordinances.

The matter carried unanimously.

**PUBLIC HEARINGS:**

**#5706/1048**

**(Case #ZON2011-02142)**

**Harkness Properties, Inc.**

2724 Old Shell Road

(Northeast corner of Old Shell Road and Bay Shore Avenue)

**Parking Ratio, Front Setback, Side Street Side Yard Setback Variances to allow an existing 12,641 square-foot structure that is within 22 feet from the front property line and within zero feet (and extends into the right-of-way) of the side property line, to be converted into a medical office and construction of 40 new parking spaces in a B-2, Neighborhood Business District (rezoning pending); the Zoning Ordinance requires at least a 25-foot front yard setback and a 20-foot side street side yard setback, and at least 42 on site parking spaces for a medical office in a B-2, Neighborhood Business District (rezoning pending).**

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 in favor of the application:

- Frank Dagley, Dagley & Associates, 717 Executive Park Dr., Mobile, AL, on behalf of the Harkness family; and,
- Chad (Jay) O'Brien, J. L. O'Brien, & Associates, 1624 S. University Blvd., Mobile, AL, spoke on behalf of the applicant.

They made the following points for the matter:

- A. the site was the location of the old Bluebird Hardware store which had been run by the Harkness family for a very many years;
- B. though the site had many points that did not meet current standards, the site had been just as it was since 1957;
- C. the site had been vacant for the last few years but now had a medical rehab facility interested in locating to that building;
- D. Subdivision and Rezoning applications had been submitted for approval to the Planning Commission;
- E. parking for the site was immediately adjacent to Old Shell Road and though not what was desired, people had been backing out of the site into Old Shell Road for years, but the owners were willing to close access to Old Shell Road from the site;

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- F. noted parking for the site along Bay Shore Avenue basically did the same thing except there was adequate room to back up, turn around, then exist forward onto Bay Shore Avenue;
- G. a parking lot had been designed to go immediately north of the building and would accommodate 40 parking spaces, being only a couple of spaces short of the required parking spaces as determined using the square footage of the building;
- H. noted the parking along Bay Shore Avenue was critical to the potential tenant as a number of their clients were in wheelchairs or on crutches however the applicant had been informed the Board could not act on that matter and it needed to go before the City Council for a decision;
- I. an application for a right-of-way use variance had been made for both the parking and a portion of the building which was in the right-of-way;
- J. noted Dagley and Associates had recently done two other situation like this which did not have to go before the City Council, referencing the Pardons and Parole Board building on Broad Street and the former Greer's store on Upham and Old Shell Road;
- K. noting the site with parking as it was had been at that location for the last 54 years and it was felt it could be grandfathered in;
- L. understood Traffic Engineering would not be overly ready to approve the matter but it was non-conforming and had been there many, many years and due to the nature of the proposed business, if they had to close the parking right beside the building such action would cancel the deal and in this economic climate there was a need to be proactive in getting vacant properties rented; and,
- M. as the realtor representing the family, advised the Board they were able to park large trucks on the site and had no problem backing out, turning around in the aisle, and exiting the site nose first.

Mr. Lawler commented he recently had one similar to this where there was parking in the right-of-way which had occurred over a very long period of time and the variance requested was granted subject to an agreement to allow its continued use by the City Council as the City Council had control of that. He believed the variance could be granted and he would be glad to give Mr. Dagley's attorney a copy of the necessary form and it was his belief the matter would sail right through the City Council. Mr. Lawler stated he could not imagine City Council would say that parking which had gone on for over 50 years would have to cease, however, this was the procedure.

Mr. Palombo advised the Board there were conditions required by the Planning Commission for the subdivision approved at the Planning Commission meeting held September 16, 2011, and read the following for the record:

- A. removal of any portion of the existing structure that extends into the right-of-way of Bay Shore Avenue, or the obtaining of approval from the City for the location of the structure in the right-of-way, or the vacation of a portion of the right-of-way;

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- B. removal and landscaping of all other curb-cuts along Old Shell Road, and provision of a City standard sidewalk, subject to condition one for Bay Shore Avenue;
- C. placement of a note on the final plat stating that the lot is limited to one curb-cut onto Bay Shore Avenue, with the size, design, and location to be approved by Traffic Engineering and comply with AASHTO standards.

Mr. Metcalfe asked if all of these were already Conditions for Approval for the Subdivision as dictated by the Planning Commission why the matter was before the Board of Zoning Adjustment as the Board of Zoning Adjustment could not grant a variance to the Subdivision Regulations only the Zoning Ordinance.

Butch Ladner, Traffic Engineering, asked if a vehicle visiting the site would have room to back into an aisle then proceed to exit the site and vice versa.

Mr. Dagley stated he would let the owners of the property address that question as they had told him they could back out and do a full turn before going out into the public street.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those 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. Coleman, to approve the above referenced request, subject to the following conditions:

- 1. subject to obtaining a Right-of-Way Use Agreement with the City of Mobile for the parking within the Bay Shore Avenue right-of-way; and,**
- 2. full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

**#5707**

**(Case #ZON2011-02251)**

**Access Motors c/o Dustin Akkrout**

151 Schillinger Road South

(Southwest corner of Schillinger Road South and Schillinger Park West)

**Surfacing, Maneuvering, and Side Street Side Yard Setback Variances to allow an automobile dealership with aggregate surfacing for inventory display, head-in, back-out parking, and a carport structure within zero feet of the side property line in a B-3, Community Business District; the Zoning Ordinance requires vehicle inventory areas and parking lots to be paved with asphalt, concrete, or an approved alternative paving surface, all vehicle maneuvering area to be on-site, and at least a 20-foot setback for a side street side yard 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.

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Vince LaCoste, Polysurveying and Engineering, 5588 Jackson Rd., Mobile, AL, spoke on behalf of the applicant, and made the following points to support the application:

- A. noted a small, “lean to” building had been put up within the setback and his client had no issue with relocating that back within the setback line as there was space to do so;
- B. the parking spaces did back out into the right-of-way, similar to the case before hand;
- C. the site was constructed in this form prior to being annexed into the City;
- D. the property was leased, not owned, by the applicant, so they were not in a financial position to make permanent upgrades to the site; and,
- E. in back of the property was a fenced in area with aggregate surfacing where they stored cars when those first arrived and were being processed for sale.

The Chair noted the presence of a dumpster and Mr. LaCoste advised it had already been relocated appropriately.

Mr. Metcalfe asked what activities would take place in the proposed aggregate surfaced area.

Mr. LaCoste advised as it was a used car lot, the area was fenced for storage and security of said cars.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those 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. Milling, to deny the above referenced request.

The matter carried unanimously.

**#5708/5685**

**(Case #ZON2011-02273)**

**Advanced Disposal Services Gulf Coast, LLC & Jeffrey E. Quinnelly**

6225 Rangeline Road

(East side of Rangeline Road, 1400'± North of Old Rangeline Road)

**Surfacing, Off-Site Parking, Access/Maneuvering, and Front Landscaping Area Variances to allow a disposal and recycling facility with gravel parking and maneuvering area, off-site parking, 20' access/maneuvering area, and reduced front landscaping area in a B-5, Office-Distribution District; the Zoning Ordinance requires parking and maneuvering areas to be paved with asphalt, concrete, or an approved alternative paving surface, all parking to be provided on-site, access/maneuvering area to be a minimum of 24' wide, and 60% of minimum required landscaping area to be located between the right-of-way and the building in a B-5, Office-Distribution District.**

The Chair announced the matter, advising the Parking Surface Variance request for the dumpster storage and loading/unloading area was recommended for approval, however, the requests for a

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Parking Surface Variance for the dumpster truck parking area, the Off-Site Parking Variance, the Access/Maneuvering Variance, and the Frontage Landscaping Area were recommended for denial. He stated the applicant should address the Board regarding the subject at that time.

Doug Anderson, Burr and Foreman Law Firm, 11 N. Water St., Mobile, AL, spoke on behalf of the applicant and requested the matter be held over. He also apologized there was no one present to represent the case when it was heard previously. He noted his client, ADS, had not had time to meet with the adjacent property owner to discuss the details of the potential Planned Unit Development application and Mr. Anderson wanted an opportunity to have as much information as possible before going forward.

Mr. Metcalfe asked if the Board proceeded with approval of the matter would it cause Mr. Anderson or his client any negative issues.

Mr. Anderson responded it would not. He elaborated the original application was only for the ADS building and they had plans to extend the back of their building. He advised they had asked for a parking surface variance as the site was being used for dump truck parking and the storage and loading of dumpsters. He stated that request was recommended for approval, however, since then ADS had leased the property behind the adjacent property owner's site and moved the dumpster storage and loading to that portion of property, while ADS continued to park their dump trucks on their original lot. He noted because of that the current application was for an off-site parking variance to utilize the adjacent property owner's site for dumpster storage, a parking surface variance so they would not have to paved their site for the parking of their dump trucks and loading equipment, and because of issues associated with the front parking along the service road, the variances for maneuvering and landscaping were also requested.

Mr. Metcalfe asked if approving the matter that day would eliminate them coming back before the Board.

Mr. Anderson stated if the matter were approved according to the staff's recommendations they would need to come back as the staff recommended denial of all requests other than the parking surface variance for the property behind the adjacent property owner.

Mr. Metcalfe asked Mr. Palombo regarding the potential Planned Unit Development application that it sounded as if there would be two property owners for one Planned Unit Development and was that possible to which Mr. Palombo advised it was.

Mr. Whistler advised the Board to review the staff's sketches and the site plan because it showed the adjacent property owner's property impacted as he would have to show full compliance with landscaping on said site.

Mr. Anderson stated if the adjacent property owner were to become a party to the Planned Unit Development, then he would have issues as he would then have to come into compliance with the landscaping ordinance and parking surfacing.

The Chair asked what the applicant and his representative would do with the time if granted a hold over.

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Mr. Anderson said he would first find out whether or not the adjacent property owner would agree to participating in the Planned Unit Development and allow his entire site to come into compliance with the Zoning Ordinance or if there were other directions ADS needed to go.

Mr. Lawler offered his opinion that the matter needed to be held over.

Mr. Palombo stated the staff would need more information because as a Planned Unit Development all of the properties involved were then looked at as one single property.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those 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 holdover the above referenced matter to the November 7, 2011, meeting, at the applicant's request.

The matter carried unanimously.

**#5709/5514/5448**  
**(Case #ZON2011-02286)**

**L'Arche Mobile**

109 Bradford Avenue

(East side of Bradford Avenue, 300'± North of Government Street)

**Use, Access, Parking, Maneuvering, and Landscaping, Tree Planting Variances to allow a three-unit domiciliary care with a 7-foot wide driveway, undesignated parking and maneuvering area, and no landscaping or tree plantings in an R-1, Single-Family Residential District; Domiciliary Care Facilities require at least B-1, Buffer Business District Zoning to be allowed by right, a 24' wide drive, designated parking maneuvering area is required, and appropriate tree plantings and landscaping are required for this use.**

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

The following people spoke in favor of the application:

- Marty O'Malley, Director of L'Arche Mobile, 151 S. Ann Street, Mobile, AL, spoke on his own behalf; and,
- Murray Thames, General Contractor for L'Arche Mobile, 405 Bay Shore Ave., Mobile, AL, spoke on behalf of the applicant.

They made the following points for the matter:

- A. the building in question was an apartment building in a single family R-1 zoned area which had been donated to their organization approximately a year prior;
- B. the organization intended to use it as an apartment building;
- C. it was their understanding the former variance on the building had expired and they simply wanted to renew the former variance; and,



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- D. there was concern regarding Traffic Engineering requiring a 24 foot wide driveway on the site as it was not possible to construct such.

The Chair asked if the applicant had read the recommendation and was in agreement with the same.

Mr. O'Malley was uncertain based on his understanding of the recommendations.

Butch Ladner addressed the concern regarding the construction of a 24 foot wide driveway saying he had lowered the size to 20 feet wide.

The Chair stated if the matter were to be approved it would probably include the condition that construction of the driveway be coordinated with Traffic Engineering.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. At that time he read a letter which had been written to the Board from an area resident who opposed the matter based upon the site going from single family to multi-family.

Mr. Millings asked what was the property used for previously and had it been used as a single family domicile.

Mr. O'Malley stated it had not been used as a single family residence. He added L'Arche Mobile owned the property directly behind the property in question and had owned the property in question for the last 15 years.

Hearing no further opposition, the Chair opened the matter for a motion.

A motion was made by Mr. Coleman, with second by Mr. Reilly, to approve the above referenced request, subject to the following conditions:

- 1. parking area must be paved with asphalt and at least two standard-sized parking spaces provided;**
- 2. coordination with Urban Forestry to comply with tree planting regulations;**
- 3. provision of a 6' high buffer fence on the North property boundary; and,**
- 4. full compliance with all municipal codes and ordinances.**

The matter carried unanimously.

#5710

(Case #ZON2011-02289)

Joseph N. Asarisi, P.E.

279 North Washington Avenue

(Southwest corner of North Washington Avenue and Congress Street)

**Parking Ratio Variance to allow 38 parking spaces to serve an emergency shelter facility with 100 beds, a 3,925 square foot medical clinic, a 1,549 square foot dining area, and 7,541 square feet of office space; the Zoning Ordinance requires 53 parking spaces be provided for these uses within the Hank Aaron Loop.**

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

Joseph Asarisi, Asarisi & Associates, 1621 S. University Blvd, A3, Mobile, AL, spoke on his own behalf saying he was in agreement with the staff's recommendations.

Hearing no further proponents for the variance, the Chair opened the floor for opposing comments. Jeff Zoughby, Mobile Association of Retarded Citizens, 759 Congress St., Mobile, AL, asked for clarification of whether the applicant was requesting to reduce the number of required parking spaces from 53 to 38, saying they were opposed to such. He added his facility already abutted the Mobile County Board of Health which did not have enough parking for their clients causing them to utilize parking on the street. He stated clients for his organization were often bused to other locations and those buses could not turn when individuals were parked on the street. He felt this request would make that situation worse.

The following people responded to the opposition:

- Paul Davis, architect for the Waterfront Rescue Mission, 61 St. Joseph Street, Mobile, AL; and,
- C. Lister Thomas, 15 Place, 15 N. Joachim St., Mobile, AL.

They stated the following:

- A. the site in question was used as a homeless shelter with dining facilities for the homeless and those using the clinic; and,
- B. most homeless individuals did not drive or have cars so the parking would be utilized primarily by the staff and volunteers who help with the dining process.

The Chair asked how many staff members were anticipated.

Mr. Davis advised the Waterfront Rescue Mission had approximately six people on staff who currently parked behind the existing facility and 15 Place had a parking lot with approximately eight to ten staff members, and the clinic would only need a very few for their staff.

The Chair asked if volunteer groups would come to the site periodically to help staff and serve.

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Mr. Davis said yes but not in large numbers as only approximately six people were needed to help serve meals.

The Chair asked if there were any more questions from the Board. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to approve the above referenced request, subject to the following conditions:

- 1. completion of a subdivision for the site;**
- 2. successful application for Planning Approval to operate an emergency shelter facility in a B-4, General Business District;**
- 3. development limited to an approved Planned Unit Development (PUD); and,**
- 4. full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

**#5711**

**(Case #ZON2011-02290)**

**Roto-Rooter Plumbing Service**

22 Midtown Park West

(West side of Midtown Park West, 254'± North of Midtown Park South)

**Sign Variance to allow a 200 square-foot off-premise wall sign; the Zoning Ordinance requires that all signs be on the same property as the business they serve.**

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 in favor of the application:

- Greg Smith, Roto-Rooter Plumbing Service, 2001 W. I-65 Service Road North., Mobile, AL, spoke on his own behalf; and,
- Frances Smith Dees, 1825 Snow Rd., Semmes, AL, spoke on her own behalf.

They made the following points for the matter:

- A. advised had received a citation for a sign on the rear of his mother's building located in Midtown Park which was the previous location of Roto-Rooter Plumbing service since 1968;
- B. in the late 1970's, early 1980, his father put a sign on the back of the maintenance building, which fronted Springdale Boulevard;
- C. noted the citation stated the sign was not permitted and it needed to be removed;
- D. contacted the staff regarding the matter and advised them the sign had been there for many, many years and he wanted it to remain;
- E. had maintained the sign and the site all of these years, including re-doing the sign annually;

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- F. met with Don Coleman, Rester and Coleman Engineers, earlier that day, who gave him some paperwork and a copy of the staff's response; and,
- G. noted the building was his mother's, who leased the building itself to an ambulance company, however there had been a verbal contract between Mrs. Dees, the building owner, and Roto-Rooter Plumbing to keep the sign on the back of the building.

Mr. Turner asked the staff if the sign in question was in place prior to the adoption of the sign ordinance and Mr. Palombo advised he did not know if the sign was in place prior to 1992.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those 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. Milling, to deny the above referenced request.

The matter carried unanimously.

**#5712/2444**

**(Case #ZON2011-02295)**

**Thi Minh**

454 Azalea Road

(West side of Azalea Road, 248± North of Pleasant Valley Service Road)

**Administrative Appeal of a Staff Determination that a Planned Unit Development Approval is required because of a change in use and parking ratio requirements from a general business use to a restaurant use of a property which shares access, maneuvering, and parking with other separate properties in a B-2, Neighborhood 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.

Don Williams, Williams Engineering, 6300 Piccadilly Square Dr., Mobile, AL, spoke on behalf of the applicant, and made the following points for the matter:

- A. advised the location was what was commonly thought of as the Bronstein shopping center;
- B. advised the site was actually the home of six distinct lots though when viewing it, it appeared to be a single lot with six shops sharing a large, common parking lot;
- C. all six of the lots in question had a metes and bounds description and share the parking lot as a matter of course as there was no definition of where the property lines were so an application had been submitted which showed where the lines were for each lot;
- D. the owner of the Asian market purchased the former frame shop and now wanted to open up a Vietnamese restaurant in that the location;

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- E. having a restaurant in that space would require five more parking spaces with it believed by the applicant those additional five spaces were within the 90 spaces in the overall parking lot seen, though they might not be present within the metes and bounds property for the space in question;
- F. had received approval to do so by all of the other site owners with the exception of Mrs. Bronstein, the owner of Bronstein's Furniture;
- G. it was believed this issue of this being a shared parking lot came before the Board some 24 years prior because in 1987 the Board of Zoning Adjustment and the Planning Commission heard a matter regarding zoning the Bronstein's Furniture, which was a B-3 use in a B-2 zoned area;
- H. an attempt was made to pull building permits at that time which caught the use discrepancy and created a need to come before the Board;
- I. application was made and a site plan submitted which showed their use needed 59 parking spaces with 64 parking spaces were provided on the site, however, if the same parking pattern were kept as was currently in place, there were actually only 50 parking spaces, making them in reality 9 spaces short of what was required;
- J. at the time of the 1987 application to have the 64 spaces shown on the site plan, they had to include the property in front of what was now the Asian market and the frame shop, creating a de facto shared parking lot;
- K. as they took the benefit of the spaces in front of the applicant's businesses back in 1987 it was only reasonable that the same benefit remain in place and be extended to the current businesses;
- L. felt adding five parking spaces at the restaurant and if they were only able to count those assigned to the Asian market and the frame shop, they would only have 19 parking spaces directly in front of the location of the necessary 32 parking spaces being required;
- M. if Bronstein's did not agree to be a part of this the staff had indicated they would lean toward the construction of walls within the parking lot with one extending from the junction between the Asian Market and Bronstein's, out across the parking lot, splitting parking spaces in half all the way to the frontage road at Azalea Road and then put a second wall from the outside of the frame shop all the way to a landscape border located at Azalea Road, a plan which would eliminate four more parking spaces and create a new driveway entrance;
- N. the frontage road along the property and Azalea Road was basically one long driveway entrance with no definition of a curb-cut along that frontage road; and,
- O. stated if the applicant were forced by the Bronstein's refusal to participate to comply with the construction of the walls, it would also force them to return to the Board and seek a variance for the number of parking spaces as they would still be short.

Mr. Metcalfe asked for confirmation on the current zoning for the property and was advised it was B-2. He noted the frame shop had been built 10 years before and asked if were made a legal lot of record at that time.

Mr. Williams stated the frame shop was still a metes and bound property.

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Mr. Metcalfe asked how the frame shop could have been built without being required to go through the process of having an appropriate legal description.

Neither Mr. Williams nor Mr. Palombo knew how such occurred.

Mr. Metcalfe asked if the number of parking spaces on the current frame shop lot were in compliance with ordinance for the size building constructed 10 years ago.

Mr. Williams stated those spaces were not compliant as they would have been required to have 15 parking spaces and there were only 10.

Butch Ladner, Traffic Engineering, wanted to know at the aisle how wide the corner designated as non-use would be.

Mr. Williams stated it was the width of the lot.

Mr. Metcalfe asked why the September 15, 2011, Subdivision and Planned Unit Development applications were denied.

Mr. Williams stated they did not have the signature of the owner of the frame shop location who was 92 years of age and lived in Birmingham, but they were now in possession of such. He advised those applications were now pending, not denied.

Mr. Metcalfe stated the applicant's contention was the matter would not have been approved originally if it were not for the acceptance of a de facto Planned Unit Development which included all of the property owners involved as well as the Bronsteins.

The Chair asked if there were any further questions of the Board. Hearing none, he opened the floor for opposition.

Clay Lanham, Vickers, Riis, Murray, & Curran Law Firm, 56 St. Joseph St., Mobile, AL, spoke on behalf of Cathy Maisel Bronstein, widow of Michael Bronstein of the Bronstein Furniture Company, and made the following points in opposition to the matter:

- A. felt nothing was farther from the truth with regards to the assertion that all of the parking spaces were shared;
- B. stated Bronstein's use of the property and parking spaces was approved by the Board in 1987;
- C. the Bronsteins owned two parcels in the area in question and the site plan submitted in 1987 showed 64 spaces available;
- D. Mr. Williams asserted Bronstein's must have used parking spaces belonging to others in the group based upon the assumption the parking lot was striped in 1987 as it is striped currently which is incorrect;
- E. of the six parcels located there, Bronstein's was the only one to have enough actual square footage area to create the sufficient number of parking spaces for its business use;
- F. the reason it was important to Bronstein's that the parking space not be deemed as shared was if one reviewed a picture of the parking lot, it

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clearly showed the parking associated with Bronstein's as nicely paved, painted, and striped, as opposed to the rest of the lot which was in disrepair;

- G. over the years Bronstein's had remained diligent in asking the other property owners to advise their customers to not use the Bronstein parking because they did not pay to maintain those spaces;
- H. the applicant has caused damage to the Bronstein parking when 18-wheelers delivering to his business crossed the Bronstein parking, with the Birmingham-based landowner as well as the tenant refusing to pay for maintenance and upkeep for parking;
- I. felt the staff's recommendation for denial was correct specifically noting a Planned Unit Development would prevent any hardship on adjoining landowners;
- J. the Planned Unit Development did not deny a more compatible use for the property as there were not enough parking spaces for the proposed restaurant but there were enough for its current use or many other uses which would not require the additional parking spaces; and,
- K. there was a service road coming from Azalea Road with a valley from it into the parking lot in question and with the exception of the two in question by the applicant, all had their own access to the service road in question.

The Chair asked if there were any more questions from the Board.

Mr. Metcalfe noted this was before the Board due to changing the use of the parcel in question but would this come back before the Board if the frame shop closed and the property be leased to any other retail business.

Mr. Palombo stated it would not be considered a change of use to do so and it was only before the Board because the proposed commercial venture was considered a lounge or restaurant.

Mr. Williams responded to the opposition's comments. He asked the staff if the parking space sizes had changed since 1987.

Mr. Palombo stated they had not per se but the City had previously allowed 8.5 feet for parking width however now nine feet was the standard.

Mr. Williams stated based upon his experience if parking were constructed as "head in" the site would not comply with what the Zoning Ordinance required with regards to length of space and aisle way widths. He said to be compliant the parking spaces would have to be painted on the diagonal to make them comply with the Zoning Ordinance for them to comply with the minimum parking spaces. He also provided to the Board a copy of an exhibit from the 1987 matter which showed no lines drawn for the parking spaces. He read the following offer by his applicant to the property owners:

- A. proposed an action of that all five owners apply for a shared PUD parking at the Planning Commission;

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- B. all five apply for a substandard parking variance at the Board of Zoning Adjustment;
- C. all five owners agree to voluntary use restrictions to control the quality of the shopping center in the future;
- D. all five owners agree to maintain the center, therefore the Bronsteins are not responsible for maintenance; and,
- E. the Asian market tenant would sign a six year lease extension for the grocery store.

The Chair stated in looking at the site plan it showed the implied driveways for all but the two properties in question. He added the fact they all ran through one another convoluted the arrangement, however, the Administrative Appeal was to determine whether or not there were errors in the staff's determination or if the staff did not consider conditions during their review. That being the case, the Chair asked if all of the information brought forth by Mr. Williams were also provided to the staff at the time of the review or were some of those facts discovered or provided after that review.

Mr. Williams believed all of the issues were discussed during the initial review.

Hearing no more discussion, the Chair opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Milling, to deny the above referenced request.

The matter carried unanimously.

**#5713**

**(Case #ZON2011-02297)**

**Patricia Abare**

5526 Todd Acres Drive

(North side of Todd Acres Drive, 749± West of Commerce Boulevard West)

**Use, Parking Ratio, Surfacing, Maneuvering, and Tree Planting Variances to allow an additional mobile home at an existing mobile home park with aggregate surfacing, substandard maneuvering areas, no designated parking, and no tree plantings in a B-5, Office Distribution District; the Zoning Ordinance requires a minimum of an R-3, Multi-Family Residential District, with Planning Commission approval for a mobile home park, surfacing of all parking and maneuvering areas with concrete, asphalt, or approved alternative surface, 24' wide maneuvering areas, designated parking of 1.5 spaces per dwelling unit, and full compliance with tree planting and landscaping requirements.**

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.

Robert Hathaway, 5526 Todd Acres Dr., Mobile, AL, spoke on behalf of the application, and made the following points in support:

- A. the property in question was a mobile home park which had become part of the City when the area was annexed into the City in 2010;



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- B. the house located on the site was falling apart so money had been give to the applicant to purchase a new trailer to go on the site, however, that was done without knowing it would create the need to do so much to the existing park;
- C. noted the park had a number of trailers which were falling into disrepair;
- D. the trailer park was family owned and operated;
- E. the applicant put a double wide trailer on a site designated for a single wide trailer;
- F. were demolishing the home so it would no longer be on the site; and,
- G. simply wanted to continue the family business while upgrading the trailers to current standards.

The Chair asked, after reviewing the staff's analysis, if the applicant had put a trailer of similar size back in the exact location and not increase the number of trailers on the site nor increased the size of said trailers, there would have been no issues as the use not have changed. He then asked if there was some hardship that required the applicant to put in a trailer of larger size or increase the number of trailers on the site.

Mr. Hathaway stated the hardship was that his ex-wife had Alzheimer's Disease and the daughter was caring for her as well as taking care of the park. He added the larger trailer would allow for all of the family members to live together and care for each other and the park at the same time.

The Chair asked if there were originally 15 trailers on the site and the trailer in question would make it 15 total mobile homes again.

Mr. Hathaway said there were 15 trailers currently on the site but two of those had sustained significant damage so they would need to be removed.

Mr. Metcalfe asked if the residence would be removed and not replaced.

Mr. Hathaway said that was correct.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those 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 above referenced request, subject to the following conditions:

- 1. limited to 15 units in the approximate same locations as the existing units; and,**
- 2. full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

#5714

(Case #ZON2011-02310)

Chassity Grech Ebbole

2156 Airport Boulevard

(North side of Airport Boulevard, 257'± West of Mohawk Street)

**Use, Access, and Surfacing Variances to allow a tattoo parlor with substandard access and aggregate parking surfacing in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of a B-3, Community Business District, zoning with a 24' wide driveway and parking that is paved with concrete, asphalt, or an approved alternative surface.**

The Chair announced the matter, advising the Use Variance request was recommended for denial, thereby making the requests for Access and Surfacing Variances moot. He asked that the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the application:

- Chassity Grech Ebbole, 2156 Airport Blvd., Mobile, AL, spoke on her own behalf;
- Robert Clute, Johnstone Adams Bailey Gordon & Harris Law Firm, 1 St. Louis Street, Mobile, AL;
- William (Jay) Casey, 409 N. Section St., Fairhope, AL; and,
- Jerry Byrd, Byrd Surveying, 2609 Halls Mill Rd., Mobile, AL.

They made the following points for the matter:

- A. the applicant stated she had owned LA Body Art Tattoo and Body Piercing Studio for the last 18 years and had owned the property in question outright for the last eight years;
- B. because of the current recession, the property became unable to rent and simply had parked her truck on the site to utilize her property and advertise her other location, not knowing doing such would cause issues and controversy, however, if granted the variance, she would definitely park the truck in the rear of the property;
- C. the property had been used as a ladies boutique for many years and the applicant had no plans to change the décor as it was very feminine and she planned to utilize the site for her female customers which made up 63% of her clientele;
- D. the applicant stated she liked to pioneer things in the tattoo-body piercing industry and wanted gear this potential studio more toward women, even going so far as working at that location by appointment;
- E. the applicant noted to the right of her property was a nail salon and she believed she would be very successful in pulling new clients from that clientele as well; and,
- F. the applicant stated she was the sole owner and tattoo/piercing artist for LA Body Art, and with the exception of her secretary/assistant, she had no staff;
- G. the applicant's counsel stated the requirement for B-3 zoning was a result of the nature of her business and were not before the Board to argue the

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- issue of B-3 zoning, however, if the applicant were like other personal service businesses such as bars or nightclubs, which were allowed to be in B-2 zoning as well;
- H. the applicant's counsel stated the property in question was clearly in a business district, fronting a major business thoroughfare in Mobile, Airport Boulevard;
  - I. the applicant's counsel stated the applicant would be happy to put a privacy fence at the back of the property even though no residentially zoned property was immediately behind said property, with parking confined to the rear;
  - J. the applicant's counsel reminded the Board there was a liquor store in the vicinity of the property in question as well as stating his opinion that this was not what was typically considered a B-3 zoned business, as there was not welding, banging, or noise typically associated with most B-3 businesses;
  - K. the applicant's counsel understood the Board and those speaking against the applicant perhaps had a bias against the tattoo industry as it might evoke different, negative things to many people;
  - L. the applicant's counsel noted the applicant had been in business in Mobile for over 20 years and he challenged anyone to point to a criminal incident caused by her shop, adding she had a proven track record of running a clean, good business;
  - M. the applicant's counsel stated the bulk of the applicant's clientele for the property in question would be coming in between 5 p.m. and midnight hours, when most of the other businesses in the area were closed so it would not mean additional noise or nuisance to the area;
  - N. the applicant's counsel stated the applicant needed operate a business in this location as the previous dress shop was no longer there and the applicant had actively tried for over a year to lease the property but due to the economy was not able to do so;
  - O. the speaker having known the applicant for the past 11 years stated he found her to be a very honest woman with a lot of integrity;
  - P. noted the Bible spoke of "laying a foundation" and felt she would lay one that was strong and good for the community, as the applicant was a person of character;
  - Q. noted though tattooing had previously evoked many negative images, over the past 20 or 30 years, it had become much more mainstream with many more people in the community having such;
  - R. noted Airport Boulevard was a busy road and would continue to be such regardless of whether the requested variance was granted or not; and,
  - S. emphasized where the staff report discussed the maneuvering area in the rear area, parking bumpers, and widening of the driveway, saying there was ample room to do those, however, continued to the desire to retain and expand the existing aggregate surfacing in the rear, which would only be approximately four feet wider than present.

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Butch Ladner, Traffic Engineering, addressed the issue of the width of the current driveway and asked if the applicant would be willing to expand it. He reminded Mr. Byrd the City standard for such a driveway was 64 feet and asked how much wider the applicant could make the driveway.

Mr. Byrd stated he was unsure of an exact width however it could be widened some but not to the 64 foot standard. He reminded the Board the staff report had mentioned widening the driveway to 12 feet and it might be possible to take a 10 foot radius off of each side of that, giving 32 feet.

Mr. Ladner asked how wide the actual driveway would be behind the sidewalk.

Mr. Byrd advised it would be 12 feet.

Mr. Ladner stated that would only accommodate “one way” traffic.

Hearing no more questions from the Board for the proponents, the Chair advised those in opposition to the matter should speak at that time.

The following people spoke in opposition of the application:

- Reggie Copeland, City Council District 5, City of Mobile, 205 Government St., Mobile, AL;
- Ann P. Thublin, 256 Mohawk St., Mobile, AL;
- Richard Lambert, 258 Crenshaw St., Mobile, AL;
- Art Forward, 2158 Airport Blvd., Mobile, AL;
- Todd Hassel, 169 Crenshaw St., Mobile, AL; and,
- Gaynelle Coggin, 264 Mohawk St., Mobile, AL.

They made the following points against the matter:

- A. as City Council person for District 5, some of the concerns by his constituents were regarding parking and the configuration of getting into the site as the driveway was very narrow and Airport Boulevard was very busy;
- B. felt the property needed a privacy fence in the rear due to its closeness to a residential area to the business zoned property;
- C. agreed with Traffic Engineering the driveway needed to be wider;
- D. didn't see any reason not to have the business at the location as the applicant owned the property, however, if it were granted B-3 use, then it needed to have a wider driveway for its clientele;
- E. as a resident of the neighborhood knew that at certain times of the day, due to the number of restaurants in that section of Airport Boulevard, traffic was terribly congested and almost at a stand still;
- F. felt the proposed business would have lots of late night activity which was not in character with the residential neighborhood behind it;

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- G. advised the Board that many signatures had been forwarded to them representing the number of people in the Mohawk, Crenshaw, and Westwood areas who were opposed to the proposed business;
- H. concerned the proposed business would increase the traffic flow in an area already too congested for the residents of the adjacent neighborhood;
- I. concerned over the hours of operation and how late hours were not in character with the neighborhood;
- J. stated the applicant's vehicle currently parked on the site was causing line of sight issues by blocking the view of oncoming traffic for those wishing to enter Airport Boulevard from Mohawk Street;
- K. if the applicant was the only operator in the business, what was the need for the additional parking, especially if her work was to be done by appointment;
- L. noted the chain link fence currently on the property had several tree limbs on it, making it an eyesore and it was wished something could be done to correct that;
- M. as an adjacent property owner, recognized how difficult the real estate market was in the current economy and since the vehicle with the information regarding tattoos and other signage regarding the same has been on the property in question all inquires regarding renting or buying the adjacent property had stopped;
- N. expressed much concern over the narrowness of the driveway to the property and concern that it would create the same negative impact on traffic as the driveway for the Foosacky's located approximately two blocks down Airport from the property in question;
- O. offered the opinion the applicant was making no effort to be agreeable regarding hours of operations;
- P. noted Mohawk Street already had issues with early morning noise associated with dumpsters and school bus traffic; and,
- Q. gave the opinion that Mohawk Street had a very family oriented character with there being a mixture of young families and older adults living in bungalow style homes and was concerned that a tattoo parlor might have a seriously negative impact on the character and atmosphere of the street.

The Chair asked Mrs. Thublin how long she had lived at her residence and she advised it had been her home since 1937. He then asked her where her home was located in relation to the auto parts store also on Mohawk.

Utilizing the overhead map, Mrs. Thublin pointed out her home.

The Chair asked Mrs. Thublin, as a resident of the neighborhood, how the hours of business for the other businesses in the area seemed to affect the neighborhood.

Mrs. Thublin stated most were 9 am to 5 pm or 10 am to 6 pm and the proposed business would be the only one in that block with such late hours.

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Mr. Lawler commented regarding the request was for a use variance and he reminded the Board that requests for variance were based on hardship to the property or that prevented the property from being used as zoned and the Board was not granting a rezoning of said property.

Mr. Clute spoke on behalf of his client stating Ms. Ebbole was willing to limit the variance request to the use as described as she very much needed to use the building and not lose it or her eight year investment in the same. He added she would be willing to widen the driveway to the extent it was possible to widen it and reminded the Board the property had previously been the location of a service business.

Mr. Coleman noted the applicant had made a statement that she had considered going to an appointment based business and asked her for more information regarding that.

Ms. Ebbole stated she would continue operating LA Body Art at its Dauphin Island Parkway location. She stated she wanted to use the property in question more as her personal office and gear it more toward appointments. She added she could not promise it would be 100% appointments, but it was her goal and would market it that way. She stated as the interior was set up as a boutique, she would not be changing any of that and would like to move her appointment work to that location. She also stated she would be gear her ladies and women clientele to this property. She noted she planned to continue sales of clothing and jewelry at the location in addition to offering tattoo services. She added it might take her six months to a year to reach "appointments only" services offered at the site but it was her ultimate goal. She commented she was not comfortable having it as "appointment only" business at this time as she needed the property to create revenue right now but in the future it would be limited to such.

Mr. Coleman asked Ms. Ebbole if she had any intentions of expanding the business at the property in question by hiring an additional tattoo artist.

Ms. Ebbole answered she had guest artists occasionally at the Dauphin Island Parkway location but this location she would like to "brand" as hers alone. She added she planned to operate one of the businesses certain days of the week and if allowed to open the proposed business at this location, she planned to work there four days a week.

The Chair asked Ms. Ebbole how long she had owned the property in question and she answered eight years. He also asked if it was an existing business when she purchased the property.

Ms. Ebbole stated it was not a business when she purchased it prior to Hurricane Katrina. After Hurricane Katrina, she stated she was able to lease the property as a boutique and it remained a boutique for a number of years until the person renting the property and running the boutique retired. She added the interior was very beautiful and very feminine and because of that she very much wanted to have her lady clientele come there for services which did include permanent cosmetics.

The Chair asked Ms. Ebbole if she saw a particular hardship with it continuing with the same zoning classification it currently enjoyed other than she had had difficulty leasing the space.

Ms. Ebbole answered she had listed it for lease with Matt Cummings for over a year and was unable to find a B-2 tenant.

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Mr. Reilly asked Ms. Ebbole how many tattoos could she do in a day.

Ms. Ebbole answered if she were doing permanent cosmetics, she could do three a day. She offered the type of tattoos she planned to offer at the location in question would be small and she only wanted to work at the location approximately five hours a day. She stated her location on Dauphin Island Parkway had a great clientele and the neighborhood served that building just fine, however, she had a vacant building which she needed to use and her female clients had expressed an interest in having private appointments.

Mr. Reilly noted Ms. Ebbole continued to mention female clients and wondered would she be limiting the site to female customers only.

Ms. Ebbole stated it would be a good marketing move to open a tattoo boutique for ladies as the primary placement for tattoos on women was the bikini line. She noted such had not been done in the industry yet and she thought it would be highly successful as 63% of her business was female.

Mr. Metcalf asked Ms. Ebbole, based upon what she had said, would she consider having as a condition for approval the site be an all women studio.

Ms. Ebbole stated she wanted to do so and believed doing so would become successful but as it had yet to be tried and the site needed to create revenue she was not ready to make that promise. She also noted she did have some male clients who also preferred privacy and a private unisex studio would be the best option.

Mr. Metcalf addressed the hours of operation stating the staff report had said she was proposing primarily 1:30 in the afternoon to midnight as those hours and wondered if she would be willing to scale back those hours with a possible cut off of 11:00 p.m. rather than midnight as a compromise with the neighbors.

Ms. Ebbole stated she was willing to compromise with the neighbors and thought the compromise as suggested might be successful, however, if it was not, she did not want limit the hours as she was not sure what her clients needs would be.

Butch Ladner, Traffic Engineering, noted he had heard someone say if the matter were approved the issues with the driveway could be worked out with Traffic Engineering. He stated the driveway on the site did not have enough room to safely accommodate two-way traffic for ingress and egress onto Airport Boulevard

Mr. Coleman asked if the Board restricted the site and business to “appointment only” clients then there should be no issue regarding the hazards of two way traffic for the driveway as she could schedule said appointment so that one client would be finished and gone before the next client arrived.

Ms. Ebbole addressed the Board stating she did not realize the hours of operation were bothering the neighbors as much as it seemed so she had no trouble agreeing with the neighbors on limiting

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the hours to closing at midnight. She also had no problem with widening the driveway or with installing a privacy fence.

Mr. Milling commented after reviewing the file there were a good number of residents who were against the matter and he felt better communication with the neighbors could have been done prior to the meeting. He appreciated Ms. Ebbole's willingness to make the compromises she described, however, from his position on the Board, he was not sure whether or not the neighbors would see those compromises as agreeable either. He wondered whether it might be more appropriate to hold the matter over to allow time to meet with the neighbors to come up with a common solution or not.

The Chair stated the purpose of the Board was to look at the hardship of the property and how its intended and current use was established and whether or not it justified a change for the parking surface, the access, and then the use variance. With that the Chair opened the matter for a motion.

A motion was made by Mr. Reilly, with second by Mr. Milling, to deny the above referenced request.

The matter carried with Mr. Reilly, Mr. Guess, Mr. Milling, and Mr. Metcalf voting to deny and Mr. Coleman voting against denial.

**#5715**

**(Case #ZON2011-02312)**

**Casmarah Mani**

1318 Congress Street

(Northeast corner of Congress Street and Cuba Street)

**Use, Parking Ratio, Frontage Landscaping, Tree Planting, and Buffer Variances to allow a convenience store with no on-site parking, reduced frontage landscaping, no tree plantings, and no residential buffer in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for a convenience store with all required parking to be provided on site, full compliance with tree and landscaping ordinances, and a buffer between commercial and residential uses.**

The Chair announced the matter, advising the Use, Frontage Landscaping and Parking Ratio Variances had been recommended for approval, however, the Buffer Variance was recommended for denial. He stated that the applicant should address the Board regarding the subject at that time.

Casmarah Mani, 637 Dr. Thomas Avenue, Mobile, AL, spoke on his own behalf, and made the following points to support the application:

- A. had operated the Diamond Convenience Store for the last 21 years, but due to Urban Development, it sat directly across from Josephine Allen public housing which had been targeted for demolishing and the rebuilding of affordable housing;



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- B. used to serve 500 plus families but now he only served approximately 35 families and before the end of the month all of those families would be gone;
- C. the variance requested was to allow him to move his business to 1318 Congress Street; and,
- D. was in agreement with the staff's recommendations however needed time to comply.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those 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. Reilly, to approve the above referenced request, subject to the following conditions:

- 1. coordination with Urban Forestry to provide tree planting compliance as much as possible;**
- 2. provision of compliant residential buffering;**
- 3. obtaining of after-the-fact building permits for the work already completed as well as for any future work; and,**
- 4. full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED:**            September 10, 2012

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/s/ William Guess, Chairman of the Board

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