

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF DECEMBER 7, 2009 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

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

MEMBERS ABSENT

Russell Riley*
J. Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Carla Scruggs, Planner I
Sondi Galanti, Secretary I

OTHERS PRESENT

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 and called the meeting to order.

PUBLIC HEARINGS:

#5581

(Case #ZON2009-02740)

William Edmund Monahan

18 Mohawk Street

Northwest corner of Mohawk Street and Homewood Street

Front Yard Setback, Side Yard Setback, Combined Side Yard Setback, and Building Site Coverage Variances to allow an addition to an existing structure 21.8 feet from the front property line, 9.4 feet from the side street property line, combined side yards of 13.3 feet, and building site coverage of 38 % on a 50-foot wide lot in an R-1, Single Family Residential District; the Zoning Ordinance requires a front yard setback of 25 feet, a side street yard setback of 12.9 feet, combined side yards of 16.7 feet, and a maximum site coverage of 35% in an R-1, Single Family Residential 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.

Jerry Byrd, Byrd Surveying Inc., spoke on behalf of the applicant and made the following points in favor of approving the variance:

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- A. the property in question is a house that was currently being renovated and reconstructed due to termite damage;
- B. the applicant had put the new addition in line with an existing roof line; and,
- C. the addition did not extend any farther into the setback than the existing structure.

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

Mr. Coleman asked if the matter were approved what, if any, would be the staff's recommendations.

Mr. Palombo stated there would be no more than the normal recommendation of full compliance with all codes and ordinances that was generally made by the staff on the matter.

Mr. Cummings asked if the variance were allowed, were there any traffic issues the Board should be aware of as the property was located on a corner.

Mr. Palombo expressed his opinion that there would not be.

Mr. Whistler advised that he had spoken with Butch Ladner, City Traffic Engineering Department, who was unable to attend the day's meeting, and that Mr. Ladner had not given any recommendations regarding this case.

Mr. Guess stated it was his understanding that the work was related to repairs being made and wondered if a permit had been issued.

Mr. Monahan stated that a permit had been gotten for the work but he was also told the permit expired due to his not having an inspection done on the work; however, the repair work was done under a valid permit.

Mr. Guess asked if that information mean there would be an instance of "double permitting" in this case.

Mr. Palombo said no, that the permit would just be extended as this was seen many times in this type scenario.

Hearing no further questions, the Chair 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 variance, subject to the following condition:

- 1) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

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#5582/5478

(Case #ZON2009-02747)

Tower Ventures V, LLC

2501 Government Boulevard

South side of Government Boulevard, 555'± East of Eslava Creek Parkway

Height and Setback Variances to allow a 150' Monopole Telecommunications Tower, setback 27.5' from a lease parcel line; the maximum allowable height is 45', and a 150' tower must be setback at least 150' from a lease parcel line in a B-3, Community Business District.

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 applicant stated their agreement with the staff's recommendations.

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 variance, subject to the following conditions:

- 1) **provision of landscaping and trees, as required by Section 64-4.E. of the Zoning Ordinance;**
- 2) **provision of paved access and parking, as required by Section 64-4.J.14. of the Zoning Ordinance;**
- 3) **removal of all dumpsters from the access easement;**
- 4) **provision of an 8' high fence enclosing the tower and equipment compound; and,**
- 5) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5583

(Case #ZON2009-02778)

Frances Stanton Tate

2702 Edgewood Street

North side of Edgewood Street, 50'± West of Mobile Street

Building Site Coverage Variance to all the construction of a single family dwelling with 36% site coverage in an R-1, Single Family Residential District; the Zoning Ordinance allows up to 35% building site coverage in an R-1, Single Family Residential 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.

Jerry Byrd, Byrd Surveying Inc., spoke on behalf of the applicant and made the following points in favor of approving the matter:

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- A. the applicant's living area of the house and the garage represent 34% site coverage, so any desire to expand would exceed the stated site coverage percentage as found in the Zoning Ordinance; and,
- B. the applicant simply wished to cover the small front porch and the rear patio, an increase in size the equivalent of two standard sheets of plywood, representing an increase of 2% in overall site coverage, 1% over the maximum as stated in the Zoning Ordinance.

The Chair asked if the Board had not heard a similar request for the property next door to Ms. Tate approximately three months prior.

Mr. Palombo stated the Chair was correct and that some measure of relief was granted in that matter as well.

Mr. Byrd noted that the applicant owned that lot as well. He added that she planned to construct two houses, one on each lot, with the applicant living in the lot currently being discussed.

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. Davis, with second by Mr. Metcalfe, to approve the above referenced variance, subject to the following:

- 1) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5584 / 5293

(Case #ZON2009-02784)

St. Peter Baptist Church

650 South Bayou Street

Southwest corner of South Bayou Street and New Jersey Street, and extending South to Montgomery Street and West to South Jefferson Street and the Southeast corner of South Bayou Street and New Jersey Street

Parking Ratio Variance to allow a Church Sanctuary with a seating capacity of 520 persons to provide only 104 parking spaces in an R-2, Two-Family Residential District; the Zoning Ordinance requires a parking ratio of one parking space for every four seats in a church, for a total of 130 parking spaces, in an R-2, Two-Family Residential 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 in favor of the above referenced variance:

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- Frank Dagley, Frank A. Dagley and Associates, on behalf of the applicant; and,
- Jessie Osborn, a member of St. Peter Baptist Church.

They made the following points in favor of the request:

- A. stated they were only asking for two things with respect to the variance, with one being a 20 foot setback along South Jefferson Street;
- B. noted that typically, when a site was bordered by two or three streets, historically it had been customary to allow a 20 foot setback on one of the border streets;
- C. with regards to the parking deficit, it was noted the church had 520 seats, and according to the code with one parking space is required per every 4 seats, meant 130 total parking spaces were needed;
- D. it was noted there was quite a bit of parking for the church located on the site, with additional parking located in the lot across Bayou Street, totaling 104 parking spaces, making the church 26 parking spaces short of what was required;
- E. presented an additional site plan which showed a location along New Jersey and Jefferson Streets that the church wanted designated for overflow parking, as that area was composed of legal, city parking spaces; and,
- F. expressed the opinion that all of the parking spaces required by the Code were not actually needed by the church, as many walked from the senior citizens' center across the street, as well as the church provided transportation for some members.

Mr. Cummings asked if it was known whether there were additional parking spaces along either Montgomery Street or South Jefferson Street.

Mr. Palombo answered no.

Mr. Guess asked if the spaces currently dedicated for government use were clearly marked and were they enforced on the weekends.

Mr. Palombo advised they were marked but not for government use as they were, simply, public, right-of-way parking.

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 variance, subject to the following conditions:

- 1) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5585

(Case #ZON2009-02795)

Wright Transportation, Inc.

2333 Dauphin Island Parkway

East side of Dauphin Island Parkway, 220' ± North of Rosedale Road

Use, Access, Parking Surface, Tree Planting, and Buffer Variances to allow the expansion of Trucking Company in a B-3, Community Business District and an R-1, Single Family Residential District with a 23-foot wide two-way access, aggregate surfacing, and less than 12% of landscaping area; the Zoning Ordinance requires at least a I-1, Light Industry District for a trucking company with storage and servicing, the ordinance also requires 24-foot wide accessways for two-way access, all parking and maneuvering surfaces to paved with concrete, asphalt, or asphaltic concrete, requires tree plantings, and requires a buffer from all residentially zoned properties.

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

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 above referenced variance:

- Brian Metcalfe, 5 Dauphin Street, Mobile, AL, representing the current property owner, Boh Brothers Construction; and,
- Pat Wright, Wright Transportation, the prospective buyer of said property.

They made the following points in favor of the matter:

- A. Boh Brothers Construction was a heavy construction company that primarily dealt with bridge and road construction;
- B. the property in question had been used for more than 20 years for the operation of said type business;
- C. the property's use had included being used as a storage area for large trucks, barges, and heavy equipment;
- D. Wright Transportation would like to purchase and use the property in a similar fashion;
- E. the property was actually two parcels, with Pillans Lane being an unopened street that bounded the two parcels;
- F. the applicant had asked for the vacation of that part of Pillans Lane which would make the two parcels into one parcel;
- G. by combining the two parcels, there would be approximately 30% site coverage with regards to landscaping, well over the 12% requested in the staff report;
- H. expressed the belief that the site had sufficient natural, vegetative boundaries for the adjacent residential properties, with the exception of Lot 2, however, that residential neighbor had provided a letter stating they felt no need for any type of buffer along their property line;

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- I. noted Wright Transportation was primarily an “over the road” trucking business with drivers typically working seven to ten days at a time;
- J. wanted to use the property as the parking location for the trucks when they were not out of town;
- K. stated there would be administrative staff working in the office building currently located on the site, as well as approximately five mechanics working in the shop area, with the rest of the property being used for parking;
- L. regarding impact on traffic, statistically speaking, the company averaged one truck coming to the site every 45 minutes;
- M. one of the reasons Wright Transportation was contemplating moving their offices was due to the fact that their trucks were unable to use Michigan Avenue due to the construction along that road; and,
- N. noted that according to the information Wright Transportation had, construction along Michigan Avenue would continue for another two years, further hampering their business activities if Wright Transportation remained at their current location.

Mr. Cummings asked what would be the impact if the vacation of Pillians Street were approved

Mr. Palombo stated that the only portion being vacated was the portion that splits the two sites, so there would still be right-of-way up to that point. He added that once the vacation was approved, the property would have split zoning, with half being B-3 and half being R-1, at which point the applicant would have the opportunity to go before the Planning Commission and have all of the property rezoned under one zoning classification. He noted that until then it was the Board’s discretion to determine whether the property would be granted a use variance for the trucking company.

Mr. Cummings asked how long Boh Brothers Construction had occupied the R-1 zoned property and was advised 20 years.

Mr. Guess asked that since vehicle servicing work was proposed to be done on the property, would there be tank rinsing or any other type work that would have an environmental impact.

Mr. Wright stated that there was currently a truck wash on site, complete with stormwater run off, drain, and oil/water separator.

Mr. Coleman asked if Wright Transportation planned to move completely out of the Brookley Field complex.

Mr. Wright stated they would do so if the variance were granted. He added that he had also been advised that plans were in place to go up approximately four times on the rent at his Brookley Field location. He noted that because of that he would definitely be seeking a new location for his business. He added that as he lived in Mobile, even though many of his drivers did not, he did not want to move the business out of Mobile.

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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.

Mr. Whistler advised the Board of Traffic Engineering's request that the drive in question on the property be a concrete drive with a minimum 20 foot radius onto Dauphin Island Parkway. He added that as Dauphin Island Parkway was a state highway, Traffic Engineering requested the condition that all work done within the right-of-way must be approved by the Alabama Department of Transportation.

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

- 1) **that the applicant provide a minimum 20-foot radii at the Dauphin Island Parkway curb cut to the site; and,**
- 2) **the Dauphin Island Parkway curb cut be approved by ALDOT.**

The motion carried unanimously.

#5586 / 4231

(Case #ZON2009-02796)

FLO TV, Inc.

1550 Azalea Road

South side of Azalea Road at its terminus

Use, Height, Setback, Buffer Separation, and Access and Parking Surface Variances to allow a 17.08' addition to an existing 250' tall telecommunications tower and two 1.8-meter diameter satellite dishes, 150' from the front property line, 165' from the West property line, 178' from the East property line, and 240' from the South property line, and 240' from residentially zoned property, with gravel access and parking surfaces in an R-1, Single-Family Residential District; the Zoning Ordinance requires towers to be in at least an I-1, Light Industry District, or B-1, Buffer Business District with Planning Approval, satellite dishes over 1-meter diameter require commercial or industrial zoning, towers are limited to a 35' maximum height, must be setback from all property lines a distance equal to the height of the tower, (267.08'), and setback from residentially zoned property a distance equal to 150% of the tower height, (400.62'), and access and parking surfaces must be paved in asphalt, concrete, or an approved alternative paving surface in an R-1, Single-Family Residential District.

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.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant and stated they were in agreement with the staff's recommendations.

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.

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

- 1) **the applicant is to provide written, technical evidence from an engineer that the extended tower structure meets the standards set forth in Section 64-4.J.6. of the Zoning Ordinance;**
- 2) **the applicant is to provide a map of the city and the first half-mile of all bordering communities showing the design and location of the applicant's entire existing wireless telecommunications network to include the subject tower, its dimensions and specifications of the site;**
- 3) **provision of landscaping and trees, to be coordinated with Urban Forestry; and,**
- 4) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5587 / 5410

(Case #ZON2009-02800)

Thomas M. Kaoui

1250 Arlington Street

Northwest corner of Arlington Street and Bascomb Street

Use, Maneuvering, Tree Planting and Landscaping Area Variances to allow an Automotive Repair Shop with insufficient vehicle maneuvering area and no tree plantings or landscaping area in an R-1, Single Family Residential District; the Zoning Ordinance requires a minimum of a B-3, Community Business District, and requires two-way drive aisles of at least 24 feet for adequate vehicle maneuvering area and requires at least 12% of the building site to be landscaped, with 60% of the figure located in the frontage.

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.

Michael Kaoui, attorney at law, spoke on behalf of his father, Thomas Kaoui, the applicant.

The Chair noted the matter had been before the Board in 2007, but that the approval had expired due to non-compliance with the conditions for approval. He also noted that the current condition listed for approval was the provision of a privacy fence and asked if the applicant was in agreement with that condition.

Mr. Kaoui state his father was.

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 reference variance, subject to the following conditions:

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- 1) **provision of a privacy fence, in compliance with Section 64-4 of the Zoning Ordinance where the property is adjacent to residentially zoned property.**

The motion carried unanimously.

#5588 / 5291

(Case #ZON2009-02808)

Joyce G. Wesley

652 Western Drive East side of Western Drive, 50'± North of Cotton Street)

Use, Parking Surface and Access/Maneuvering Variances to allow a Furniture Repair and Upholstery Shop in a B-1, Buffer Business district with aggregate parking and access, and a 10' wide one-way drive; the Zoning Ordinance requires a minimum of a B-3, Community Business District, asphalt, concrete of an approved alternative paving surface with a 24' wide drive is required for two-way traffic in a commercial 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 in favor of the above referenced variance:

- Joyce Wesley, co-owner of the business, spoke on behalf of herself and her partner, Ward Matthews; and,
- Willie Jackson, Action Realty.

They made the following points in favor of the matter:

- A. stated the business did not necessarily need a driveway because all of the work would be done internally;
- B. planned to transport the furniture themselves thereby eliminating the need for an expansive parking lot;
- C. they were currently a licensed antique shop and had received a number of donations to their shop, however, many of those pieces needed to be restored;
- D. did not feel that their business would have a negative impact on the surrounding businesses; and,
- E. noted that the Board had previously seen the property a variance had been granted for it approximately five years prior for use as a barber shop, however, the tenant never got a business license.

Mr. Palombo asked if the applicants had checked with the Building Code Department to determine such things as the need for bathrooms and the like.

Ms. Wesley stated her business space had both a male and a female restroom.

Mr. Cummings asked if there was a rear entrance to the suite that the proposed business would occupy.

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Ms. Wesley stated there was and that it had a double door.

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. Cummings, with second by Mr. Coleman, to approve the above referenced variance, subject to the following conditions:

- 1) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5589

(Case #ZON2009-02809)

David Gwin, Sr.

157 Dexter Avenue

(East side of Dexter Avenue, 123'± South of Government Street)

Parking Ratio, Maneuvering and Access, Tree Planting and Landscaping Area Variances to allow the expansion of a Custom Printing Business in a B-2, Neighborhood Business District with 9 parking spaces, an 11-foot wide one-way drive aisle for two-way traffic, 1 frontage tree, and insufficient landscaping area; the Zoning Ordinance requires 16 parking spaces for a 4,650 square-foot building, two-way drive aisle access at least 24 feet wide, adequate maneuvering area, at least 12% of the building site to be landscaped, with 60% of the figure located in the frontage.

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.

Don Williams, Williams Engineering, spoke on behalf of the applicant and stated they were in agreement with the staff's recommendations.

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. Davis, to approve the above referenced variance, subject to the following conditions:

- 1) **the six 45° angle parking spaces on the South property line be eliminated and replaced with four parallel parking spaces (20-foot length end spaces and 23-foot interior spaces as per City of Mobile Traffic Engineering);**
- 2) **the site be limited to curbside garbage and trash pickup;**
- 3) **the site be limited to five employees at a time;**
- 4) **one heritage tree to be planted on the southern end of the property in the area not currently covered by the existing live oak's dripline;**

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- 5) **two copies of the revised site plan be submitted to the Planning Section of the Urban Development Department indicating compliance with all conditions prior to issuance of any permits; and,**
- 6) **approval from ARB for all improvements.**

The motion carried unanimously.

OTHER BUSINESS:

Mr. Palombo took a moment to introduce Zoning Technician, Randall Broughton, who was extended a cordial greeting.

The Chair brought up the issue of having supernumeraries and made the following points:

- A. the State required them for Board of Zoning Adjustment;
- B. it had become problematic for the Mobile Board of Zoning Adjustment as there was little to no motivation for those individuals to “show up” as nine times out of ten, their input was not needed; and,
- C. the current Mobile Board of Zoning Adjustment would like to see that changed.

The Chair offered a motion to officially send a letter to the City Council asking them to formally request the State Legislature to address this and do whatever was possible to change that statute so that all members were regular voting members. The motion was seconded by Mr. Davis and the motion carried.

Mr. Metcalfe asked if the request would be specifically for the Mobile Board of Zoning Adjustment or if the request would be for all of those Boards within the State.

The Chair noted he did not know that information.

Mr. Metcalfe asked that, if possible, the Chair draft a letter for all of the regular Board members to sign and then present that letter to the Council.

Mr. Palombo stated it was his understanding from Mr. Coleman that Councilperson Carroll would be giving Mr. Palombo a call regarding Mr. Riley’s attendance, as he might be interested in making a change.

Mr. Guess noted that neither of the two supernumeraries had attended a meeting in some time, including that day’s meeting.

Mr. Daughenbaugh took a minute to introduce Gerard McCants, a Supervisor II with Urban Forestry and noted that in the future, when he was unable to attend the meetings, Mr. McCants would fill in for him. Mr. McCants was given a cordial greeting by the Board.

There being no further business, the meeting was adjourned.

APPROVED: August 2, 2010

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Chairman of the Board

/jsl