

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF JANUARY 4, 2010 - 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  
Tony Felts, Planner I  
Sondi Galanti, Secretary I

**OTHERS PRESENT**

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

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

**CALL TO ORDER:**

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

**APPROVAL OF MINUTES:**

The Chair announced that minutes had been presented for approval. Mr. Cummings moved, with second by Mr. Guess, to approve the minutes from the following, regularly held, Board of Zoning Adjustment meetings:

- June 2, 2008

The motion carried unanimously.

**PUBLIC HEARINGS:**

**#5590**

**(Case #ZON2009-02878)**

**Phillip M. Leslie, P.C.**

**121 North Lafayette Street**

West side of North Lafayette Street, 150'± South of Spring Hill Avenue

**Parking Ratio, Surface, Access/Maneuvering, Buffer, and Landscaping/Tree Planting Variances to allow the initial commercial use of a property with no designated parking area, a concrete ribbon runner driveway with a single lane and pull-in/back-out parking,**

January 4, 2010

Board of Zoning Adjustment

**no buffer from adjacent residential use, and no landscaping/tree planting provisions in a B-2, Neighborhood Business District; the Zoning Ordinance requires full site compliance for the initial commercial use of this property to include seven dedicated parking spaces with concrete, asphalt, or an approved alternative paving surface, a two-way, 24'-wide concrete, asphalt, or approved alternative paving surface driveway, a 6'-high privacy fence or wall or 10'-wide buffer from adjacent residential use, and 12% total site landscaping (60% of that in the front yard), and 2 overstory frontage trees and at least 7 overstory and 6 understory perimeter trees and 1 understory parking area tree in a B-2, Neighborhood 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.

Philip Leslie, 1579 West Avenue, Mobile, AL, spoke in his own behalf and made the following points:

- A. even though the property was zoned B-2, it had previously been used as residential property and the applicant would like to maintain the residential character of the property as it is adjacent to the Old Dauphin Way Historic District;
- B. there would only be two people on the property the majority of the time, himself and his secretary, and the rear of the site provided ample parking for them;
- C. the Sickle-Cell Association has allowed his clients to park in their lot adjacent to his;
- D. felt that being required to put in all of the required paved parking would make the property out of character with the surrounding neighborhood; and,
- E. there are no plans for extending his practice at this time.

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

- 1) that the site be allowed one attorney and one office personnel;**
- 2) the provision of providing 2 additional paved parking spaces within the rear between the existing garage and the primary structure;**
- 3) that the property owner apply for a new variance if any changes to the site or any additional personnel are proposed;**
- 4) the provision of the planting of two (2) overstory trees within the front 25-feet and the right-of-way along North Lafayette Street; and,**
- 5) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

January 4, 2010  
Board of Zoning Adjustment

#5591

(Case #ZON2009-03036)

Fravert Services

**3725 Airport Boulevard**

South side of Airport Boulevard, 260'± West of Montlimar Drive

**Sign Variance to allow a total of seven wall signs for a tenant in a multi-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows one wall sign per tenant in a multi-tenant commercial site in a B-3, Community Business District.**

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

David Brandt, Fravert Services, 133 West Park Drive, Birmingham, AL, spoke on behalf of the applicant. He expressed his thanks to Caldwell Whistler and the staff for their assistance in understanding the process involved in requesting the variance. He also noted, per the staff report, that if the glass for the doors were clear, they would install the vinyl decals on the interior of those doors as suggested by staff. He stated that the building in which the College and the retail cosmetology services were located were separately maintained and hoped they could be viewed as two separate businesses.

The Chair noted regarding the large wall signs that the third sign requested for visibility from the road to the rear of the building was completely outside of the Ordinance and not allowed. He noted that similar requests for the same type signage had been denied as well. He also noted regarding the College and the retail services center, that as long as those had separate business licenses, then each entity was entitled to their own exterior wall signage.

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) that only sign number one (1) as illustrated on the submitted site plan be allowed;**
- 2) the provision that if an additional business license and zoning clearance is submitted and approved then sign number two (2) would be allowed; and,**
- 3) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

January 4, 2010  
Board of Zoning Adjustment

#5592/4422

(Case #ZON2009-03037)

W. Andrew Wisner, Jr. & Kathy C. Wisner

5014 Cole Drive East

West side of Cole Drive East, 270'± North of Audubon Drive East

**Side Yard Setback Variance to amend a previously approved Side Yard Setback Variance to allow a 16' x 20' addition to a detached garage/storage building within 5' of a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' side yard setback 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 Kearly, architect for the applicants, spoke on behalf of the matter and stated they were in agreement with the 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. Coleman, with second by Mr. Davis, to approve the above referenced variance, subject to the following conditions:

- 1) **the provision of receiving a demolition permit for the blue accessory structure to the rear and the demolition of this structure prior to the issuance of a building permit to enlarge the existing structure;**
- 2) **the provision of gutters and downspouts along the adjacent side of the structure along the side property line for the entire length of the accessory structure; and,**
- 3) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5593

(Case #ZON2009-3040)

John W. Adams, Jr.

1914 Dr. Martin Luther King, Jr. Avenue

North side of Dr. Martin Luther King, Jr. Avenue, 300'± West of Schusse Lane

**Use, Parking Ratio, Access/Maneuvering, Buffer, and Landscaping/Tree Planting Variances to allow a law office with no designated parking area, a single lane driveway with pull-in/back-out parking, no buffer from adjacent residential use, and no landscaping/tree planting provisions in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum B-1, Buffer Business District for law offices, full site compliance for commercial use of this property to include three dedicated parking spaces, a two-way, 24'-wide driveway, a 6'-high privacy fence or wall or 10'-wide buffer from adjacent residential use, and 12% total site landscaping (60% of that in the front yard), and 1 overstory frontage tree and at least 7 overstory and 6 understory perimeter trees and 1 understory parking area tree.**

**January 4, 2010**  
**Board of Zoning Adjustment**

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

John W. Adams, Jr., 1914 Dr. MLK Jr. Avenue, Mobile, AL, spoke on his own behalf regarding the property, which was owned by his father. He noted that he wanted to have his law practice in R-1 zoned property, however, due to the practice being small, he did not feel it would alter the residential character of the neighborhood. He also presented letters from adjacent land owners stating their support of the matter. He noted there would only be he and his secretary on a normal day, expecting very few clients as his practice was very small. He noted that there were three parking spaces in the rear that would adequately accommodate himself, his secretary, and a client. He added that though the area was zoned as R-1, due to the extremely dense traffic on Dr. MLK Jr. Avenue, it seemed to him more suited for a commercial venture.

Mr. Davis expressed his support of the matter and advised Mr. Adams that they would do what was possible to resolve the matter.

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) that the site be allowed one attorney and one office personnel;**
- 2) the provision of providing 3 additional paved parking spaces;**
- 3) the approval by Traffic Engineering on allowing either two (2) one-way curb cuts or one two-way curb cut to be determine by Traffic Engineering;**
- 4) that the property owner apply for a new variance if any changes to the site or any additional personnel are proposed;**
- 5) the provision of the submission of a notarized letter from the adjacent property affected stating they wish that the site not provide a buffer until the undeveloped R-1, Single-Family sites site are developed;**
- 6) the provision of the planting of one (1) overstory trees within the front 25-foot and the right-of-way along Dr. Martin Luther Ling, Jr. Avenue and one (1) understory tree to be planted along the parking area; and,**
- 7) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

**#5594**  
**(Case #ZON2009-03043)**  
**Computer Programs & Systems, Inc.**

January 4, 2010  
Board of Zoning Adjustment

**6600 Wall Street**

North side of Wall Street at its West terminus

**Parking Surface and Off-Site Parking Variances to allow a temporary gravel-surfaced parking lot on an adjacent site in a B-2, Neighborhood Business District; the Zoning Ordinance requires parking surfaces to be asphalt, concrete, or an approved alternative paving surface on the same site as the business for which it is to be used 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.

Cary Phillips, Computer Programs and Systems Inc., spoke on behalf of the applicant. In response to the staff's report, he presented a site plan that indicated the property improvements necessary as noted in the staff's report. He noted that the company had grown and inasmuch were renovating the old Circuit City location for the 200 people employed by the company. He noted they anticipated finishing the project by the first of May, 2010. He noted that at that time they would return the property to its original grassy state.

Mr. Palombo advised the Board that the site plan presented that day was not present with the application and therefore the staff did not have any of the information included on that plan to use in the basis for their 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) **that the site be allowed to remain with no expansion of the limestone or aggregate surface for six-months;**
- 2) **the provision that the limestone or aggregate be removed after the six-months and that grass be planted returning the site to its previous vegetative state; and,**
- 3) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5595/2945  
(Case #ZON2009-03045)  
**Signs Plus, Inc.**  
5753 Old Shell Road

**January 4, 2010**

**Board of Zoning Adjustment**

South side of Old Shell Road, 175'± West of South University Boulevard

**Sign Variance to allow two building wall signs projecting 5' above the roofline in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow building wall signs to project above the building roofline 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.

Danny Storonskyj, Signs Plus, 15132 Dedeaux Road, Gulfport, MS, spoke on behalf of the applicant. He noted that the property had recently been purchased and was now operating as a barbecue restaurant known as The Shed. He added that The Shed had other locations in Mississippi and that they all had signage as was being requested.

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. Guess, to deny the above referenced variance, based on the following reason:

- 1) that the proposed sign would violate the spirit of the ordinance.**

The motion carried unanimously.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED:** August 2, 2010

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Chairman of the Board

/jsl