

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF FEBRUARY 4, 2013 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

William Guess, Chairman
Vernon Coleman
Sanford Davis
Adam Metcalfe
Jeremy Milling
*supernumerary member

MEMBERS ABSENT

Russell Reilly*
Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Bert Hoffman, Planner II
Tchernavia Yow, Secretary I

OTHERS PRESENT

John Lawler, City Attorney
George Davis, City Engineering
Butch Ladner, Traffic Engineering
Gerard McCants, Urban Forestry
Capt. Sam Allen, Fire & Rescue

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 noted the number of members present constituted a quorum. He advised that it would require all four members present to vote in the affirmative to approve any variance and then called the meeting to order.

HOLDOVERS:

#5718

(Case #ZON2011-02557)

Joe Mason

1412 & 1416 Wolf Ridge Road

(East side of Wolf Ridge Road, 200'± North of Moffett Road).

Front Landscaping Variance to allow 2,435 square feet of front landscaping areas on a 94,510 square foot lot; the Zoning Ordinance requires 6,804 square feet of front landscaping area for a lot 94, 510 square feet in B-3, Community Business District.

Council District 1

The Chair announced the matter.

Mr. Palombo advised that he received an email from Frank Dagley, the applicant's engineer, stating that he had not heard anything from Mr. Mason for several weeks. Mr. Dagley suggested that the application be either denied or withdrawn.

February 4, 2013
Board of Zoning Adjustment

The Chair asked if there were those present in favor or opposition and opened the floor to their comments.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalfe, to deny the above referenced request.

The motion carried unanimously.

PUBLIC HEARINGS:

#5810

(Case #ZON2013-00002)

Garrard Development Group, LLC

1201 Michigan Avenue

(Southwest corner of Michigan Avenue and Bay Avenue).

Front Landscaping and Tree Planting Variances to allow reduced front landscaping square footage and to allow three (3) frontage trees along Bay Street in a B-2, Neighborhood Business District, and R-1 Single-Family Residential District; the Zoning Ordinance requires that 60% of the total required amount of landscaping be placed between the building and the right-of-way with nine (9) overstory trees along the Bay Street frontage in a B-2, Neighborhood Business District.

Council District 3

The Chair announced the matter.

Doug Anderson, Burr and Forman, LLC, 11 N. Water Street, Mobile, AL, spoke on behalf of the applicant. He advised that after the staff report came out the prior week, they were able to work with the staff and revise the site plan so that they didn't need a variance. He stated that the application had been withdrawn by the applicant.

#5811

(Case #ZON2013-00004)

Denis Blackburne

951 Government Street

(West side of Marine Street, extending from Government Street to Church Street).

Bulk Variance to allow 56 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District; the Zoning Ordinance allows 36 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District.

Council District 2

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

Ben Cummings, Cummings Architecture, 1 Houston Street, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the matter:

February 4, 2013

Board of Zoning Adjustment

- They have read the staff reports and agree with the staff recommendations.

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

The Chair asked if there were those present in favor or opposition to the matter and opened the floor to their comments.

Christy Bodin, 205 Marine Street, Mobile, AL, spoke on her own behalf. She stated that she lived two blocks down from the proposed site. She was unclear whether the project was going to be a nursing home, and if it is was going to be a nursing home, she asked if it could it start out as initially being a nursing home, then turn into multi-unit homes.

Mr. Guess asked for clarification that the variance request was for an elderly/retirement home with the use being limited to that use.

Mr. Hoffman verified that it would be an age-based facility, so it will only be for seniors.

The Chair advised that there was a letter submitted from a neighbor to the staff regarding the matter stating that he needed more time to consider it.

Mr. Cummings stated that the applicant and the developer were present at the hearing. They met with a group of neighbors that morning and they all seemed satisfied with what they were told. He didn't know if the person who sent in the letter was present or not, but he did know that all that should have been notified were notified.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the above referenced request, subject to the following conditions:

- 1) Apartment use limited to elderly housing / retirement home use; and**
- 2) Full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5812

(Case #ZON2013-00005)

Angela Myrant

1005 Donald Street

(West side of Donald Street, 105'± North of Balthrop Street).

Use Variance to allow the operation of a domiciliary care facility in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-1, Buffer Business District for a domiciliary care facility.

Council District 1

The Chair announced the matter, advising it had been recommended for holdover so that revision can be made and submitted by February 13, 2013. He advised the applicant should address the Board regarding the subject at that time.

**February 4, 2013
Board of Zoning Adjustment**

The following people spoke in favor of the application:

- 1) Angela Myrant, 1005 Donald Street, Mobile, AL, spoke on her own behalf, and
- 2) Thomas Myrant, 2104 Pleasant Avenue, Mobile, AL, spoke on behalf of the applicant.

They made the following points in support of the application:

- She stated that there will be 3-4 individuals living on site;
- He stated that he would have all the information together regarding parking requirements by the next meeting;
- She agreed to holdover until the next meeting for them to provide the requested information.

Mr. Ladner stated that he wanted to be sure that the applicant understood the type of parking information that would be required: driveways, dimensions for parking stalls, and aisles, if necessary. He advised that they could call him if they needed help or clarification.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalfe, to **holdover until the March meeting so that the following revisions can be made and submitted by February 13th:**

- 1) **explanation of the hardship associated with the request – why the structure cannot be used as a single family residence, and what is the need for the use of this site as proposed;**
- 2) **provision of information regarding the number of people to be accommodated at the facility;**
- 3) **selection of which type of facility will be operated, according to the Alabama Department of Mental Health / Mental Retardation Administrative Code (Chapter 580-3-22); and**
- 4) **depiction on the site plan of parking area adequate for all employees and visitors for the facility, or if the adjacent property will be used for parking, revision of the Variance application to include the adjacent property as part of the request, including additional property owner authorization, application fees, mailing labels and postage fees.**

The motion carried unanimously.

#5813

(Case #ZON2013-00006)

Chris Bowen

1705 Alba Avenue

(South side of Alba Avenue, 800'± West of Dauphin Island Parkway).

Use and Side Yard Setback Variance to allow an accessory structure as the primary structure within 1.2' of the side property line on an R-1, Single-Family Residential District; the Zoning Ordinance requires a dwelling unit to be located on a site prior to any accessory structures being placed, and that all structures must be a minimum of 8' from the side property line.

Council District 3

February 4, 2013
Board of Zoning Adjustment

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

Chris Bowen, 4455 Kingswood Drive, Mobile, AL, spoke on his own behalf, and made the following points in support of the application:

- He purchased the lot in 2008;
- He apologized for building a storage shed on the lot without first obtaining the required permits;
- The lot is less than 11,000 square feet with 30 feet on Alba Ave, and 50 feet at its widest point, which poses his hardship;
- The lot is in a flood zone;
- There is minimal buildable area for a house which he plans to build;
- Its difficult to comply with modern Zoning Ordinances within Alba Pointe Subdivision;
- The neighbor to the east, closest to the shed provided a letter stating that they have no problem with the shed (letter provided with handout packet); and,
- He put quite a bit of planning into the location of the shed.

Mr. Milling asked the applicant if was he unaware of the requirement to get permits to build the shed, considering he was in the business.

Mr. Bowen responded that he pulled a Corp of Engineering and a City permit for the electrical and built a boatshed that holds two boats down on the water. The original shed was 12' X 12', and he added on to it a couple times as he ran out of room. He didn't realize that a boatshed that just has boating items and some art projects would require further permitting. He thought that he could build a shed on a lot with no permit, apologized for not doing so, and he didn't realize he needed to permit.

Mr. Milling asked was he aware of the hardships mentioned, such as the subdivision plat, the limitations of the size of the lot and the fact that the lot was in a flood zone, before purchasing the property.

Mr. Bowen stated that he was aware that there was very minimal space to build the eventual house on the lot. The placement of the storage shed is just out of the way of the buildable area left on the lot. The lot is long, skinny and slopes to the water. So yes, he did realize that he was buying an undersized lot that did not comply with many of the modern zoning ordinances.

Mr. Milling asked if it was his intent to build a house on the lot at the time of purchase.

Mr. Bowen stated that eventually he did want to build a house on the lot. His first intent, however, was to have somewhere to put his boats. So, he pulled a Corps of Engineers permit and the only City permit he pulled was for the power pole, which was pulled by his now deceased electrician, Ray Carter. After the shed was built, he decided that he needed somewhere to store his boat accessories which led to the expansion of the shed.

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

February 4, 2013
Board of Zoning Adjustment

The following people spoke in opposition of the application:

1. David Sanders, 1713 Alba Ave., Mobile, AL, spoke on his own behalf.
2. Gail Driver, 1707 Alba Ave, Mobile, AL, spoke on her own behalf, and
3. Rufus Williams, 1659 Alba Ave., Mobile, AL, spoke on his own behalf.

They made the following points in opposition to the application:

- A temporary, detached building during a storm will float and blow debris onto adjacent properties and cause damage to those properties;
- There are five vacant lots in the neighborhood, and if each one does the same thing, there will be five vacant lots with temporary, detached buildings during floods and hurricanes blowing materials around causing damage to property of actual residents in the neighborhood;
- They were concerned about what the applicant will be required to do with the building that is currently there now if this application is denied;
- There is currently a trailer on an occupied lot in the neighborhood. If a storm comes, there won't be time to move it, and it will blow into houses on adjacent properties;
- One of the structures is a garage that houses an automobile;
- It is not characteristic of the neighborhood;
- The additions have become an eyesore and an embarrassment when residents and visitors pull into the driveway, approximately 25' to the left (Photos and a letter were provided to staff);
- Permits were not secured; and,
- There is a 55 gallon drum for a restroom.

Mr. Hoffman stated that Mr. Sanders was referring to another property at the end of the cul-de-sac that has a storage shed without permits, and in that particular case, there is also a fifth wheel trailer parked there. That applicant has been notified that they will also have to go through the Board of Adjustment process to get approval for what they have done without appropriate permits.

Mr. Metcalfe stated that, by looking at the photos, the shed also appeared out of character to him. He then asked if the shed was cleaned up, painted, and some of the artwork removed to be more keeping with the rest of the neighborhood, would that alleviate some concerns?

Ms. Driver stated that when the applicant purchased the property, there was originally a home there, and that those things would not alleviate her concerns because it has already gone too far for that. Permits were not secured. Others in the neighborhood have built structures on their properties and had to abide by the guidelines, and it would seem that the applicant should do so as well.

Mr. Bowen stated that the shed is well anchored by concrete and 4 by 4 posts. It will take a major storm for it to move anywhere.

Mr. Palombo stated that no permits were pulled for either the boat shed, power poles, the temporary shed nor any additions to it, of which there were several. He was unsure of where the

February 4, 2013
Board of Zoning Adjustment

applicant got the permits for the boat shed and power poles that he referred to. There were no code requirements or reviews done when the structure was built, so there would be no way to know or confirm that it was done to code.

Mr. Guess stated that, according to the pictures, the building is utilized for more than just storage and materials.

Mr. Bowen stated that he made it comfortable for his guest that would go out on his boat and visit with him at the shed. He has ordered the city water meter. There was previously just a sprinkler meter there before. He has also ordered the sanitary sewer, which has not been at that address.

Mr. Guess asked if he currently had restroom facilities at the location.

Mr. Bowen stated that there was currently a make-shift restroom facility, but it was not up to code.

Mr. Guess asked if there was overnight storage of a vehicle currently at the location.

Mr. Bowen stated that he purchased a "project car" from a neighbor, and his wife evicted it out of the carport at his home. He stores that vehicle on the site.

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

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

The motion carried with Mr. Coleman opposing the denial.

#5814/5103

(Case #ZON2013-00012)

Ricky Armstrong

741 Hillcrest Road

(West side of Hillcrest Road, 340'± South of Airport Boulevard).

Sign Variance to amend a previous Sign Variance to allow a third freestanding sign with a total of 199 square feet; the Zoning Ordinance allows a maximum of two freestanding signs on a multi-tenant site with less than 1,200' of road frontage.

Council District 6

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

Ricky Armstrong, Modern Sign Company, 1009 Pinewood Drive West, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the application:

- They are proposing adding a 4' X 8' digital sign to the current structure as shown on the drawing;

February 4, 2013

Board of Zoning Adjustment

- The customer would like to have this as Krispy Kreme is moving towards a digital era;
- Krispy Kreme presented the idea of the “hot now” in neon, now they want to move to a digital capability to provide awareness of their charitable events, i.e. the “beads for good grades,” along with giving them effective advertising;
- This sign is an American-made product with their best warranty – it is high quality unlike many of the Chinese signs and other digital signs available;
- It automatically dims at night and is not a nuisance.

Mr. Guess asked how Krispy Kreme currently markets their charitable activities; do they post signs in the windows/stores?

Mr. Armstrong stated that they put very little on the windows. For permitting purposes, they only put it on the inside of the windows. They provide flyers to the schools and use word of mouth.

Mr. Guess asked if they would consider replacing the neon signs as they already have a variance to exceed the allowance.

Mr. Armstrong replied that the variance is more for the current sign being its own pylon sign due to the parcel of land being in that shopping center. If it came down to removing the neon sign from the pole to get approval on the digital sign, they would do that.

Mr. Guess stated that this location already had multiple signs, not only on the building, but two different pylons that they have signage on, as well as a painted vehicle.

Mr. Armstrong stated that the pylon sign on Airport Boulevard would remain, and they would not do another digital sign on Airport. Due to the way the traffic backs up in this area, they believe this location would be the most effective.

Mr. Metcalfe asked if they were talking about a separate structure or adding it to the existing structure.

Mr. Armstrong stated that they would add it to the existing structure.

Mr. Metcalfe asked why this was being called a third freestanding sign if they were adding it to the existing structure.

Mr. Hoffman clarified that this is essentially amending a previous variance to allow a third freestanding sign. This will be an expansion of the size of that pylon sign, so it is amending the previously approved third freestanding sign to increase the size of it.

Mr. Armstrong clarified that they have this freestanding sign and a small tenant panel on the sign on Airport. He asked if they would entertain re-permitting that structure as one freestanding sign – drawing a box around it and considering it one sign instead of three different signs? That way, they could accommodate the one sign instead of having it permitted as three different signs.

Mr. Metcalfe didn't see how that would accomplish anything and thought it was overkill from the aesthetic standpoint. He thought that if they were willing to take the middle structure out and

February 4, 2013
Board of Zoning Adjustment

move the message center up, giving it greater visibility, it would be more conforming with the shape of the sign.

Mr. Guess stated that he still thought that this site has an excessive number of signs between what's on the building, two different pylons, and the car.

Mr. Metcalfe stated that if they take the center one out, it is still the same number of signs.

Mr. Armstrong stated that the customer had stated that they might be willing to remove one of the building signs – the one facing Hillcrest Road.

Mr. Guess asked if this sign would actually be on both sides of the pylon.

Mr. Armstrong affirmed that it would be on both sides.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the above referenced request, subject to the following conditions:

- 1) removing the “hot” neon sign;
- 2) shifting the new digital sign up higher on the base in place of the “hot” neon sign; and
- 3) removing the building sign with the Krispy Kreme logo facing Hillcrest Road.

The motion failed after a 3-2 vote with Mr. Guess and Mr. Milling in opposition.

OTHER BUSINESS:

There being no further business, the meeting was adjourned at 2:53 p.m.

APPROVED: March 10, 2014



Chairman of the Board

/lw