

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF MARCH 1, 2010 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

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

MEMBERS ABSENT

William Guess
J. Tyler Turner*

STAFF PRESENT

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

OTHERS PRESENT

John Lawler, City Attorney
David Daughenbaugh, Urban Forestry
Gerard McCants, Urban Forestry

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

CALL TO ORDER:

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

APPROVAL OF MINUTES:

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

- August 4, 2008

The motion carried unanimously.

PUBLIC HEARINGS:

#5600

(Case #ZON2010-00284)

SRK Holdings, LLC

1431 East I-65 Service Road South

East side of East I-65 Service Road South, 325' ± South of Pleasant Valley Circle

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Sign Variance to allow a total of two freestanding signs for a single-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows one freestanding sign for a single-tenant commercial site in a B-3, Community Business District.

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

Roger Koby, Koby Import Auto, spoke on his own behalf and made the following points in favor of the matter:

- A. moved to the new location on January 18, 2010, from the former Government Boulevard location;
- B. SRK Holdings, LLC, had been doing business as Koby Import Auto for the last 30 years, having started as an auto repair business in 1979;
- C. over the years, the business has expanded to include used vehicle sales, with that now being their primary business;
- D. in November of 2001, the new car franchise for Subaru was added to the portfolio;
- E. shortly after this addition to his business, a number of customers expressed their concern that he had stopped selling high line, luxury cars, so the Subaru dealership was moved next door to the original business there on Government Boulevard;
- F. advised that Subaru required a brand sign at their franchise locations but that the sign was not supposed to include the dealership information;
- G. stated only moved to the new location in an effort to grow his business and want to incorporate the same signage at the new location;
- H. though his Subaru sales have lagged as the brand is not widely or well known in the South, the franchise is now “breaking even”; and,
- I. did not want the Subaru portion of his business visually take over the large, more established, more profitable part of his business, which was imported, used cars.

The Chair asked if the Subaru requirement was to have brand signage without the dealer’s name being involved and Mr. Koby advised that it was.

Mr. Metcalfe asked if there were room in between the current signage legs to put the Subaru sign and was advised the current sign was old and worn out and was coming down.

Mr. Palombo explained the applicant was taking down the old signage from the previous location to use it at the new location.

The Chair asked if it was known what the Subaru Corporate policy regarding signage was on franchises that sold more than one make of vehicle.

Mr. Koby stated that most were multiple franchise dealers, not single brand dealers like himself, so those dealers utilized the signage involved with the other makes of vehicles to function as their dealership’s identification.

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Mr. Palombo queried Mr. Koby on his understanding that Subaru would not allow him to place his Koby Import signage below their Subaru standard and Mr. Koby advised that was correct.

Mr. Palombo reminded the Board that in 2004 they approved a similar variance for Bullard Automotive, which was next door to the property in question.

Mr. Metcalfe asked what Mr. Koby's alternative plans regarding his signage were if the matter were not approved, specifically asking if Subaru would remove his franchise rights.

Mr. Koby stated he would only use the Subaru sign only as he thought it was more important to maintain the Subaru brand identification for his business.

Mr. Palombo stated he had seen Subaru signage which included the dealer's name and other car business in the past, and wondered why Mr. Koby could not order the same such sign.

Mr. Koby stated that the signage Mr. Palombo mentioned was old signage and no longer available through Subaru.

Mr. Metcalfe recognized that Subaru no longer made signage as was mentioned by Mr. Palombo, but asked if a sign company could affix Mr. Koby's identity sign to the overall sign structure, would Subaru allow that attachment or had that question been posed yet to the Subaru Corporate signage department.

Mr. Koby stated that there was specific verbiage within his contract that prohibited him from attaching other signage to the Subaru sign. He noted that things might be different if he had a Toyota or other easily recognizable brand, however, that was not the case, and he had spent a great deal of time and money building up recognition of the Subaru product in the Mobile market and his association with the same. He also stated his willingness to use a smaller Koby Import sign simply to be able to maintain his name recognition on the sit.

The Chair asked what the applicant's plans were for the front of the building.

Mr. Koby advised his overall plan was to get both the Subaru and the Koby names up on the side of the building, however, at that time, no official design was in place.

The Chair asked how tall was the smaller sign Mr. Koby had referenced and was advised it was approximately 10 feet high, but that it was adjustable. He noted that the height of the Koby signage was not that important to him, but the name recognition was.

Mr. Coleman moved, with Mr. Davis' second, to approve the use of two signs on the site.

Mr. Metcalfe noted that the spirit of the Ordinance was to prevent sign clutter and felt that taking a sign from one location, poles from another, etc., would not be within that spirit.

Mr. Palombo stated that the applicant had not provided all of the necessary information regarding the proposed sign and how it was to be reconstructed on the site and such information was necessary.

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The Chair noted that will the issues just mentioned, it was his opinion that a holding the matter over might better serve its purpose.

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 noted that a number of questions had been raised since Mr. Coleman's motion, and asked Mr. Coleman if he would withdraw his motion so that a motion to hold the matter over to address those questions could be made. Mr. Coleman agreed and withdrew his motion to approve.

A motion was made by Mr. Metcalfe, with second by Mr. Davis, to hold the matter over until the April 5, 2010, meeting, with revisions to illustrate exact sign placement, and revised renderings to show the exact look, height, and size of all signage due to the Planning Section by March 17, 2010.

The motion carried unanimously.

#5601

(Case #ZON2010-00299)

Kentris Morrissette

Southeast corner of First Avenue and Prince Street

Use Variance to allow two single-family dwellings on a single building site in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum R-2, Two-Family Residential District for a two-family residential use.

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 matter:

- Frank Dagley, Frank A. Dagley and Associates, spoke as the representative of Kentris Morrissette; and,
- Kentris Morrissette, 1512 W. Carlisle Drive, Mobile, AL, the owner/applicant.

They offered the following points in favor of the above referenced request:

- A. Mr. Morrissette had owned and operated a small car body repair shop located at the corner of First Avenue and the Beltline Service Road for the past seven years;
- B. he recently purchased the property in question with hopes of putting a small, apartment complex there;
- C. Mr. Morrissette had gone through the Planning Commission process with regards to the proposed apartment complex, with all of the applications being approved and the rezoning being recommended to the City Council for approval;

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- D. based upon having received the Planning Commission's favor regarding the rezoning, and expecting the City Council to approve the matter based upon that, the two legal lots of record were pre-maturely made one legal lot of record;
- E. the applicant tried to re-subdivide the new legal lot of record back into the original two lots, however, was advised that was no longer possible as the applicant had dedicated right-of-way to the city during the early process;
- F. noted that other than lot size, which was slightly under what was required by the Ordinance, the proposed lots met all of the necessary requirements for R-1, single family dwellings; and,
- G. it was felt that the hardship was created by not requiring the rezoning which was imposed by the City Council, not the applicant.

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.

Elmore Pate, Sr., 3056 First Avenue, Mobile, AL, spoke in opposition to the matter saying the property was too small to build two separate residences as well as concern regarding an increase in traffic.

Mr. Metcalfe noted that the lots were substandard prior to the subdivision process that created the single, legal lot of record.

Mr. Dagley noted that most of the lots in that subdivision, due to their age, were substandard in size.

Mr. Palombo asked to add extra conditions should the Board choose to approve the matter. He listed those as:

- A. completion of the subdivision process as was proposed with the removal of the curb-cut restrictions to the lot;
- B. completion and construction of a six foot high privacy fence between the two units to give the appears of two separate lots;
- C. provision of separate utilities and connections for both dwelling units;
- D. construction of sidewalks on the lot or obtain a waiver of construction; and,
- E. full compliance with all municipal codes and ordinances.

Mr. Metcalfe asked the applicant if it was his intent to rent the two homes after they were constructed and reminded him that it would be impossible to sell the houses individually as they would stand on only one legal lot of record.

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

A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to approve the above referenced request to allow two single-family dwellings on a single building site in an R-1, Single-Family Residential District, subject to the following conditions:

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- 1) **completion of the Subdivision process with the Mobile City Planning Commission to remove the curb-cut restrictions on the lot;**
- 2) **provision of separate utilities and connections for both dwelling units;**
- 3) **construction of sidewalks on the lot or obtain a waiver of construction; and,**
- 4) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5602

(Case #ZON2010-00320)

SPS Realty, LLC

906 South Ann Street

Southwest corner of Tennessee Street and South Ann Street

Use Variance to allow the addition of a media preparation building to an existing foundry complex in an R-1, Single-Family Residential District; the Zoning Ordinance requires minimum I-2, Heavy Industry District for a foundry.

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.

Chris Arledge, The Atchison Firm, spoke as the representative of SPS Realty, LLC, in this matter. He made the following points regarding the fence recommendation:

- A. the site was two tax parcels but they treated as one on the report;
- B. between the south end of the property and the proposed fence location there was a chain link fence and a 50 foot power line easement with pole, and a driveway before reaching the school;
- C. the property was zoned R-1 which was considered to probably be due to the area's blanket designation as such at the time the Zoning Ordinance was adopted;
- D. in 2005, a property adjacent to the north of the property in question was re-zoned I-2 and in the report it was characterized as a manifest error that the site had been designated R-1; and,
- E. it was hoped that based upon these factors, the fence requirement would be removed or at least modified so that the applicant could use some type of screening medium on the chain link fence that was already in place.

Mr. Palombo noted that the fabric suggested was not recognized by the Zoning Ordinance as making the fence a site proof fence.

Mr. Metcalfe asked why the applicant was opposed to a privacy fence.

Mr. Arledge stated that as there was a fence already in place, it was seen that an additional fence would simply create more maintenance for the applicant.

Mr. Metcalfe asked staff about the suggested location of the privacy fence and Mr. Palombo stated it was recommended along the line abutting the school.

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Mr. Coleman expressed his belief that the current chain link fence in that area was eight feet in height.

Mr. Palombo advised that was correct and added it also had razor wire or barbed wire atop it.

Mr. Arledge stated he was not sure of any of real details regarding the fence other than it had been in place for quite some time.

Mr. Palombo stated that due to the close proximity to the school, the staff would like to see the area sight proof, which could be accomplished with a wooden fence, but that the wooden fence would also provide some level of sound buffering for the school as well.

The Chair noted the business had been at that location for 118 years and that modification being done to the site was due to an increase in their business, which should also translate into an increase in employment in the area, and inasmuch, he felt it was punitive to require them to put in a privacy fence at this time.

Mr. Metcalfe asked if the applicant's offer to put a screening fabric over the existing chain link fence could be entertained by the Board.

The Chair noted he had no problem with that unless it created a site view problem that necessitated the reduction in height of the current fence.

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. Riley, to approve the above referenced request to allow the addition of a media preparation building to an existing foundry complex in an R-1 Single-Family Residential District, subject to the following condition:

- 1) addition of opaque fabric to the existing chain link fence on the South property line, except within 25 feet of the property lines along Ann Street and Michigan Avenue.**

The motion carried unanimously.

#5603

(Case #ZON2010-00321)

Vanessa Shoots

1400 Church Street

Northwest corner of Church Street and Everett Street

Use, Parking Ratio, and Tree/Landscaping Variances to allow a 10-unit apartment building in an R-1, Single-Family District; the Zoning Ordinance requires a minimum R-3, Multi-Family Residential District for apartments, with 1.5 parking spaces per dwelling unit, 12% total site landscaping (60% of that in the front yard), one tree per 30 linear feet of the perimeter of the site, and one tree per 20 parking spaces.

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The Chair announced the matter and advised that the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the above referenced request:

- Vanessa Shoots, 605 St. Francis Street, Mobile, AL; and,
- Bill Partridge, architect, 107 St. Francis Street, Mobile, AL.

They made the following points in its favor:

- A. noted that the apartments had been approved previously for ten units;
- B. noted that the proposed floor plan would make the apartments efficiency apartments with only one tenant per unit, thereby reducing the number of cars belonging to the complex to one per tenant, leaving them only 1 short by those number and six short by the Ordinance;
- C. the units are approximately 600 square feet and with only one main room, a kitchen, and a bathroom in the majority of the units, with only two having an additional living room area;
- D. the complex was purchased right before Hurricane Ivan and sustained damage then, as well as with Hurricane Katrina;
- E. additional problems with contractors, as well as the homeless, were encountered after the hurricanes as well, which caused the time lapse that caused the loss of the building's non-conforming status;
- F. the property had always been the location of a ten unit apartment building; and,
- G. other than the issue of unit number, they were in agreement with the conditions as stated.

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.

Bunky Ralph, 258 Stocking Street, Mobile, AL, noted that she had lived in the area for 25 years and in that time period the apartments had never been indicative of the residential character of the neighborhood and she urged the Board to follow the staff's recommendations regarding it. She also had great concern regarding the use of on street parking, noting that the site's close proximity to Leinkauf Elementary only would exacerbate that problem.

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

A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to approve the above referenced request to allow a 10-unit apartment building in an R-1, Single-Family District and with parking variances as well, subject to the following conditions:

- 1) revision of the site plan to provide 24' of access/maneuvering aisle width behind the parking stalls;**
- 2) revision of the site plan to provide a 24' wide curb cut and drive along Everett Street;**
- 3) revision of waste removal to be private curb-side;**

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- 4) **obtaining of Architectural Review Board/Mobile Historic Development Commission approvals prior to requesting any permits;**
- 5) **full compliance with all other municipal codes and ordinances; and,**
- 6) **provision of a revised site plan prior to requesting any permits.**

The motion carried with only Mr. Cummings abstaining. He noted his reason for abstention was because he did not know whether or not the applicant was still working with one of his family members.

#5604

(Case #ZON2010-00323)

William T. Partridge Jr.

429 Lincoln Boulevard

Southwest corner of Lincoln Boulevard and Twelfth Street

Use Variance to allow a four-unit apartment building in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum R-3, Multi-Family Residential District for a multi-family residential use.

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.

Bill Partridge, architect, 107 St. Francis Street, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of approving the above referenced request:

- A. the proposed four unit apartment complex was proposed for an area in one of the newly annexed areas of the City;
- B. in asking for the variance, it was noted that directly across from the proposed apartments, there already existed an apartment building, though the number of units in it was not known; and,
- C. noted that the apartment complex mentioned did not have the necessary parking spaces nor the necessary compliance with the landscaping and trees portion of the Ordinance.

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.

Rev. James E. Powell, 415 Devon Street, Mobile, AL, stated he had property adjacent to the property in question and was interested in seeing what was proposed to be put on the site as he might be interested in doing the same.

Mr. Partridge provided Rev. Powell with the information he requested.

The Chair commented that if this were an existing structure that needed work and had a previous non-conforming use but had not been occupied in some time, that would be one consideration, however, the Board was not in the business of re-zoning property, which is what the Board was being asked to do. He added that if the area could or should accommodate apartments was a matter to be decided by the Planning Commission and City Council, not the Board of Zoning Adjustment. He added that he felt strongly in favor of denying the matter.

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Upon hearing those comments, Mr. Palombo asked if the applicant might consider withdrawing the application, because should the matter be denied, it would require a six month waiting period before it could be acted upon again.

Upon taking those comments under consideration, Mr. Partridge withdrew the application.

Hearing none, the Chair opened the matter for a motion.

A motion was made by Mr. Cummings, with second by Mr. Coleman, to accept the applicant's withdrawal of the above referenced request to allow a four-unit apartment building in an R-1, Single-Family Residential District.

The motion carried unanimously.

#5605

(Case #ZON2010-00328)

MAWSS

2975 Josephine Street

West side of Josephine Street, 290' ± South of Mill Street

Access, Maneuvering, Setback, and Surface Variances to allow pull-in / back-out parking with a 5' vehicle stacking lane, 5' front yard fence setback for a 6' high wooden fence, and an aggregate drive and parking surface for a sewage lift station in an I-1, Light Industry District; the Zoning Ordinance prohibits vehicles from backing into the right-of-way and requires a minimum 51' for vehicle stacking, a minimum 25' front yard setback for fences over 3' in height, and drive surfaces to be paved with concrete, asphalt, or an approved alternative paving surface in an I-1, Light Industry 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.

Jimmy Rogers, McCrory and Williams Engineering, spoke on behalf of the Mobile Area Water and Sewer System and made the following points in favor of the matter:

- A. Mobile Water and Sewer had an existing 24 inch sewer line that ran from west to east across the property in question;
- B. it has been determined that the line may have some issues that will require repairing and/or replacing portions;
- C. Mobile Water and Sewer have negotiated the use of a portion of the City property in the area to construct a lift station to take some of the flow off of the line in question, putting it back into a newer system;
- D. after coordinating efforts with a number of the City's departments, a property size was determined for MAWSS to use for the lift station;
- E. this action resulted in benefiting the City's Parks and Recreation Department, as it was not necessary to remove any trees from the site;
- F. based upon City Engineering's request that they find a way to minimize water run off from the site, an impervious surface was decided up on for the property; and,

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G. Parks and Recreations Department also requested that some type of screening be done so as to not allow the lift station to be visible from any direction, which resulted in the installation of a full privacy fence.

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. Riley, to approve the above referenced request to allow pull-in/back-out parking with a 5 foot vehicle stacking lane, 5 foot front yard fence setback for a 6 foot high wooden fence, and an aggregate drive and parking surface for a sewage lift station in an I-1, Light Industry District, subject to the following conditions:

- 1) **installation of the public sidewalk along the East side of Western Drive as specified in the easement granting;**
- 2) **the obtaining of a fence permit for the wooden fence; and,**
- 3) **the obtaining of all required building permits for the site development.**

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: August 2, 2010

Chairman of the Board

/jsl