

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

MEMBERS PRESENT

William Guess
Vernon Coleman
Sanford Davis
Mack Graham
J. Tyler Turner*
*supernumerary member

MEMBERS ABSENT

Reid Cummings, Chairman
Russell Riley*

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Tiffany Green, Secretary I

OTHERS PRESENT

Butch Ladner, Traffic Engineering
David Daughenbaugh, Urban Forestry

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

CALL TO ORDER:

Acting 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 with the supernumerary member voting and called the meeting to order.

HOLDOVERS:

#5531

(Case #ZON2009-01103)

Napoleon McCoverly

208 North Lafayette Street

Southeast and Northeast corners of North Lafayette Street and St. Stephens Road

Use, Off-Site Parking, Buffer Fencing, and Buffer Fence Height Variances to allow parking in an R-1, Single-Family Residential District, and off-site parking in a B-2, Neighborhood Business District, no buffer fencing facing across-street residential zoning, and to allow 4' high and 5' high buffer fence heights; the Zoning Ordinance does not allow parking in an R-1, Single-Family Residential District, requires all parking to be on-site in a B-2, Neighborhood Business District, requires a 3' high privacy fence along a parking lot street frontage facing across-street residential use, and requires a buffer fence to be 6' high along adjacent residentially used properties.

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:

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- A. via the overhead, advised the Board of the proposed placement of the fences in question;
- B. the fence that was built to four feet high was done so at the request of the residential neighbor who wanted to be able to see over the fence and the applicant did not realize the height would be an issue for the City, however, the applicant can increase the fences to the proper height if required;
- C. the applicant saw no need for the three foot high fence as required in the area depicted;
- D. regarding the issue of circulation, the revised plan now showed the existing 16 foot driveway with only one-way traffic into the site, which was allowed by City code;
- E. the proposed driveway on the south side is a two-way, 20 foot wide, drive, which provides approximately 2 feet extra in width than required;
- F. the off-premises parking was proposed to the north side of the building with additional parking on the east end, however, that parking was on a R-1 zoned piece of property but, it was added that historically the property had been used commercially and noted that the applicant had indeed paved the property as well; and,
- G. this came before the Planning Commission at its last meeting in May where it was recommended for approval by the staff but ultimately denied by the Planning Commission for reasons the staff had actually recommended, which was split zoning, however, an approval by the Board would allow for the staff's recommended split zoning of the property.

Mr. Coleman asked if the staff had seen the revised site plan before making their recommendation to the Board.

Mr. Whistler advised that the staff had reviewed the revised site plan prior to formulating their recommendations and advised that a copy of that revised site plan should be located in the file presented to the Board.

Mr. Byrd asked what recommendations had been made by the staff.

Mr. Whistler stated it remained recommended for denial as Traffic Engineering still had a number of grave concerns regarding the matter.

Mr. Ladner, Traffic Engineering, noted some of his department's questions as follows:

- A. driveways needed to be shown, along with radii, as they were not included on the revised plat;
- B. what was being considered a curb-cut was really a very low curb that cars were crossing;
- C. the revised plat needs to show the standard representations of such things as driveway widths and radii, which currently were not shown;
- D. if the project were approved, the narrow driveway needed to be marked with proper signage saying, "One Way" or "Do Not Enter";

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- E. on Lot 1, there was insufficient room for the northern most parking stall to back out so that would need to be corrected on the revised plat; and,
- F. other issues as outlined in the Traffic Engineering comments.

He re-emphasized that a revised site plan would be necessary for Traffic Engineering's approval.

The Chair asked if the Board felt they had adequate information to rule on the matter that day and several members stated they did not.

The Chair asked if there were any in attendance who wished to speak either in favor or against the matter to do so at that time.

Donald Watson, 857-B Palmetto Street, Mobile, AL, president of the St. Stephen's Road Improvement Association, whose mission was to improve the appearance and quality of life along the business corridor of St. Stephen's Road on the north side of the city of Mobile. He noted that the applicant had spent a great deal of money improving all of the property involved in this venture. He stated his organization did not want to see the business fail due to it not having enough parking as it was now such an improvement over its past condition.

Hearing no further discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to hold the matter over until the July 6, 2009, meeting, to allow a revised site plan to be submitted that addressed the following issues for each lot:

Lot 1

- 1) the driveways are not clearly shown;**
- 2) the narrow driveway should be signed "one-way" and/or "do not enter";**
- 3) the driveway radii appear to be less than 20';**
- 4) there is insufficient room for the northern-most parking stall to back out; and,**
- 5) the 20' wide aisle is too narrow (two-way traffic requires a 24' width).**

Lot 2

- 1) radii dimensions are not indicated;**
- 2) the asymmetrical stalls must be striped out since they will not accommodate cars;**
- 3) it is unclear if there is to be a drive on the South side, and if so, it should be indicated; and,**
- 4) the existing Southern most drive on the South side cannot function.**

The motion carried unanimously.

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#5534

(Case #ZON2009-01119)

Estelle W. Crosby

4513 Old Shell Road

South side of Old Shell Road, 660'± West of South McGregor Avenue

Sign Variance to allow a total of four freestanding sign structures, two of which are legal nonconforming, with tenant panel signs on two proposed sign structures projecting 34"± into the public right-of-way, and two retainer wall signs in the public right-of-way, in a B-2, Neighborhood Business District; the Zoning Ordinance allows one freestanding sign structure with an 18" minimum right-of-way setback, and does not allow any signs to be placed in the public right-of-way 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.

The following people spoke in favor of the variance:

- Estelle Crosby, managing partner of the Twitty Myers partnership, which owned Holiday Place;
- Michael Feore, president of Holiday, Inc.; and,
- Reggie Copeland, City Council District 5

They made the following points in favor of the matter:

- A. in May 2009, they came before the Board with a sign variance request and progress regarding the signage has taken place since then;
- B. the issues regarding the wall have been resolved including getting proper building permits for those, as well as a right-of-way permit for the wall;
- C. presented pictures of the sign and how it appears on the property;
- D. stated that the 8 retail merchants would have hanging signs from the two requested lamp posts and that the Holiday Place sign would be placed on retaining wall;
- E. the Holiday signage on the building was actually signage for the Holiday shop, not specifically Holiday Place;
- F. expressed a willingness to remove the two reader boards located at the ends of the property if the variance were approved;
- G. stated that the hardship of having no signs for the overall business or the retail shops remained;
- H. expressed the feeling that the shorter sign height was more in keeping with the character of the area;
- I. the lot was very narrow and very deep and in as much people did not have the opportunity to spend a lot of time in front of the location when passed the location, so sign visibility was a hardship;
- J. the problem with not having adequate signage would be that the merchants in the very back of the site had no way to letting potential customers be aware of their location or services available;
- K. noted that businesses along the Airport Road corridor benefited from signage along the road, as well as marquee and façade signage to attract

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customers and sited Holiday Place's lack of same as a hardship for the property; and,

- L. expressed feelings that, especially in the current economic market, that the City should do its best to help these small businesses increase their visibility without hefty financial burdens.

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

Janice Bowers, 4514 Old Shell Road, expressed her concern over the number of signs being proposed for the site. She felt that two signs was the most the site needed, though she noted the proposed signage was very aesthetically pleasing. She stated that as a marketing professor she understood the imperative need for convenient and easy to see signage. She expressed her support of the two lamppost type signs if they would remove the signage currently on site.

Mr. Turner asked if the variance were to be approved would it in some way be in opposition to the regulations noted in the Village of Springhill overlay.

Mrs. Crosby stated that in as much as the Village of Springhill had sidewalks going in, Holiday Place has made the choice to be ready with signage that would be compatible with said sidewalks. She said they did the retaining wall themselves to save the Village of Springhill money on re-doing the streets as well as donating the two lampposts to the City as part of the planned lighting for the area. She added that they had also donated four tree grates for the new planned trees to be placed in.

Butch Ladner, City Traffic Engineering, asked how far back off the edge of the road was the sign, as Traffic Engineering's only concern would be that the sign would be too close to the road, thereby creating a "line of sight" problem.

Mr. Davis asked if the staff could provide more detail on the matter as far as where they were and where they were headed.

Mr. Palombo stated that Mrs. Crosby had come to him before the meeting to discuss the possibility of having the sign variance approved if she would remove the existing reader board signs at the east and west corners of the property. He advised that staff would have no problem with that, however, the staff had issues with the proposed sign location on the wall. He stated the staff would be in favor of approving the two lampposts with attached signage with them located the proper distance from the right-of-way and approved by Traffic Engineering. He did note, however, the wall signs proposed for the existing brick wall would not be something the staff would recommend.

Hearing no further discussion, a motion was made by Mr. Turner, with second by Mr. Davis, to approve the request for a **Sign Variance to allow a total of four freestanding sign structures, two of which are legal nonconforming, with tenant panel signs on two proposed sign structures projecting 34"± into the public right-of-way, and two retainer wall signs in the**

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public right-of-way, in a B-2, Neighborhood Business District at the above referenced application, subject to the following conditions:

- 1) **removal of the two existing reader board signs on the East and West property lines along Old Shell Road;**
- 2) **that the applicant submit sign applications for all proposed signage, prior to installation; and,**
- 3) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5535

(Case #ZON2009-00315)

Willie L. Williams, Jr.

601 Holcombe Avenue

Southeast corner of Holcombe Avenue and Senator Street

Parking Ratio Variance to allow 22 on-site parking spaces for a 3,037 square-foot lounge in a B-3, Community Business District; the Zoning Ordinance requires 31 on-site parking spaces for a 3,037 square-foot lounge 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.

Willie L. Williams, Jr., 6014 Holcombe Avenue, Mobile, AL, spoke on his own behalf and offered the following points in favor of the variance:

- A. the building was first occupied in 1937 as a grocery store and has had several tenants since then, including being the recent home to New Christian Kingdom Baptist Church;
- B. when the applicant gained possession of the property, he had to remove certain church property including signage that showed New Christian Kingdom Baptist Church having 150 members;
- C. based upon the information that the church had a congregation of 150 members, the applicant felt the current parking must have been adequate for the number of customers he anticipated;
- D. based upon conversations with other area businesses, the applicant came to the firm belief that parking would not be an issue at his location, as curb side parking was allowed and he had written permission from two of the adjacent property owners to allow parking for his customers at their location; and,
- E. based upon the business location and design, there is no room on the site for addition parking which has created the hardship that has necessitated the requested variance.

Mr. Guess asked if on street parking truly existed in the area.

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Mr. Ladner, Traffic Engineering, stated he did not believe that on street parking was allowed in that area currently, but the applicant stated there was and provided photographs in support of that.

Mr. Ladner responded that his department would have issues with on street parking at the location as it could cause sight issues for patrons coming out of the on site parking onto Holcombe Avenue.

Mr. Coleman advised that as he had personally knowledge of the area, he felt, based upon time of operation that there would be no real traffic issues as there was very little traffic on Holcombe Avenue in the evenings.

Mr. Coleman asked for the location of the 22 spaces to which the applicant stated he did have access.

Mr. Williams stated they were located in the area at Senator Street and Holcombe Avenue, including parking in the lot at the former seed company location.

Mr. Palombo commented that information had not been included in the application because had it been, the staff would have included those spaces toward the applicant's required number of parking spaces.

Mr. Guess asked Mr. Williams if he had letters granting him parking rights from the two business owners in question and whether those had been given to the staff.

Mr. Williams advised he had.

Mr. Palombo stated the staff had advised Mr. Williams of the additional information that was needed, and noted that the building plan currently in the file was not to scale.

Mr. Williams noted that even though the building had been on site since 1937 and that the site had been home to some 10 businesses to date, no one to date had created the information the staff was now requesting. He advised that his having to create the information piecemeal was creating an unnecessary financial hardship in his opinion.

Mr. Tyler asked Mr. Williams, if at the time he signed the lease on the property, did he have a "due diligence" clause in said lease that stated that prior to opening the business certain issues would have to be satisfied or was he paying straight rent.

Mr. Williams advised he was paying straight rent.

Mr. Turner noted the applicant's frustration over what appeared to be a change in the way of doing business with regards to the property, however, he also noted that as the business was planned as a restaurant/bar, that certain, additional factors were then in play and created additional requirements. He then added that it might be wise to hold the matter over.

Mr. Palombo stated the only impact the previous uses for the property would have on the current issue would be if the applicant were returning to one of those uses. He then advised the

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applicant that he would need to give the staff to scale plans of all sites that would be utilized for parking.

Mr. Williams stated he had no problem paying for engineering plans for his site, however, he did not feel that it was fair to require that he pay for site plans for business who had been in business for over 10 years and had still failed to provide that information to the Planning Department.

Mr. Turner noted the applicant's frustration but stated that plans for all of the sites involved would be necessary if the applicant wanted to have his request approved.

Mr. Whistler advised that the staff would also need a to scale interior drawing to determine square footage for the property involved as that would determine the exact number of parking spaces needed by the applicant.

Mr. Davis asked the applicant if he could meet all of the stipulations being made or if he anticipated not being able to do so.

Mr. Williams stated the only problem he saw would be going to the two adjacent businesses and having site plans done for them.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were any more who wished to speak in favor of the matter. Hearing none, he asked if there were those who wished to speak in opposition to the matter. Hearing none, the Chair opened the floor for a motion.

Hearing no further discussion, a motion was made by Mr. Guess, with second by Mr. Turner, to hold the matter over until the July 6, 2009, meeting, to allow the applicant the opportunity to submit the following:

- 1) **a revised scaled site plan showing the adjacent properties being used for parking to be included in the variance application;**
- 2) **a scaled site plan of the site; and,**
- 3) **a scaled interior layout of the proposed tenant space.**

The motion carried unanimously.

PUBLIC HEARINGS:

#5536/5320

(Case #ZON2009-01296)

Wrico Signs, Inc.

171 East I-65 Service Road South

East side of East I-65 Service Road South, 635'± South of Emogene Street

Sign Variance to allow an additional wall sign for a single tenant on a multi-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows one wall sign per tenant on a multi-tenant commercial site in a B-3, Community Business District.

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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.

Fred Wright, 5714 Kings Mill Drive, representing Wrico Signs for Verizon Wireless made the following points in favor of the variance:

- A. due to the recent merge of Altell with Verizon Wireless, the Altell stores are being converted to Verizon stores;
- B. in the Mobile area, there are two primary retail stores planned with one at 171 East I-65 Service Road;
- C. these stores will handle all of the sales and service for Verizon in the Mobile area;
- D. a corporate sign is proposed for the front of the building, which faced the south but can not be seen from the southbound side of I-65 or from the service road;
- E. inasmuch, the client is requesting a 44 square foot sign to be placed on the west face of the building so that southbound motorists or those traveling on the service road could see it and exit onto Airport Boulevard; and,
- F. this would be the only sign for the property.

Mr. Guess stated that if his memory served him correctly, there had been an application for that location for another business.

Mr. Palombo reminded the Board that a similar variance request had been made by Sprint/Altell, the former tenant. He stated they had the option of installing only one wall sign which could be put either on the west face elevation or the south face elevation. Mr. Palombo reminded the Board that they had denied that variance request.

Mr. Guess noted that they did have a freestanding pylon sign as well.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were any more who wished to speak in favor of the matter. Hearing none, he asked if there were those who wished to speak in opposition to the matter. Hearing none, the Chair opened the floor for a motion.

Mr. Coleman asked Mr. Palombo the size on the sign currently in existence for Altell.

Mr. Palombo advised it was on the south elevation. He added that he had no information regarding the size on the existing sign. He stated that Verizon was simply planning on re-facing the sign currently on site and wanted to add a new sign to the other side, giving them two signs on the building when they are only allowed one as a multi-tenant building. He noted that they also had a double faced pylon sign on the site as well.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to deny the requested variance.

The motion carried with only Mr. Guess voting in opposition.

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#5537

(Case #ZON2009-01302)

Jaye Hoffman

319 Morgan Avenue

Northeast corner of Morgan Avenue and Creek Street

Parking Surface, Access and Maneuvering Variances to allow an alternate paving surface of grass pave groecell product backfilled with aggregate stone and approval of the existing onsite 12' wide driveway in a B-1, Buffer Business District; the Zoning Ordinance requires concrete, asphalt, or an approved alternative parking surface and 24' wide ingress/ egress drive in a B-1, Buffer 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.

Jaye Hoffman, 319 Morgan Avenue, spoke on his own behalf, saying he was in agreement with the recommendations.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there were those who wished to speak in opposition to the matter. Hearing none, the Chair opened the floor for a motion.

Hearing no further discussion, a motion was made by Mr. Turner, with second by Mr. Coleman, to approve the request for a **Parking Surface, Access and Maneuvering Variances to allow an alternate paving surface of grass pave groecell product backfilled with aggregate stone and approval of the existing onsite 12' wide driveway in a B-1, Buffer Business District at the above referenced application, subject to the following conditions:**

- 1) **installation of the grass paver system at existing grade so as not to cause any tree root system damage;**
- 2) **pavers to meet City Engineering standard of 5,000 psi minimum compressive strength and be installed as per manufacturer's recommendations;**
- 3) **submission of the paver manufacturer's specifications and inclusion of a typical section of the paver installation on the site plan for the Land Disturbance Permit; and,**
- 4) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5538

(Case #ZON2009-01310)

James David Brister

64 Bienville Avenue

Northwest corner of Bienville Avenue and Conti Street

Rear Setback Variance to allow the construction of stairs 0.1' from the rear property line for access to a legal nonconforming garage apartment in an R-1, Single-Family Residential

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District; the Zoning Ordinance requires a minimum 8' rear yard setback 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.

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

David Brister, 64 Bienville Avenue, Mobile, AL, introduced himself but was interrupted by the Chair advising him that as Mr. Turner had recused from the matter, Mr. Brister might be better served having the matter held over for 30 days to allow for more voting members.

Mr. Brister advised the Board he would like the matter held over until the next meeting.

Hearing no further discussion, a motion was made by Mr. Graham, with second by Mr. Guess, hold the matter over at the request of the applicant.

The motion carried unanimously.

#5539

(Case #ZON2009-01313)

Regions Financial Corporation

3950 Airport Boulevard

Northwest corner of Airport Boulevard and South McGregor Avenue

Landscape Area and Tree Planting Variances to allow 8.7% of the site to be landscaped, and to reduce the number of perimeter trees and parking trees to zero in a B-2, Neighborhood Business District; the Zoning Ordinance requires at least 12% of the entire site to be landscaped, and also requires one heritage or one understory tree for every 30 feet of outside lot perimeter (less frontage areas) and one understory tree for every 20 parking spaces in a B-2, Neighborhood Business District.

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

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 Chair advised the applicant that if he so chose, due to Mr. Turner's recusal causing there to be the need for a unanimous vote for the matter to pass, the matter could be held over.

Michael Lynch, Sain Associates, spoke on behalf of the applicant stating he did not want to hold the matter over and that they were in agreement with the staff's recommendations.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there were any more who wished to speak in favor of the matter. Hearing none, he asked if there were those who wished to speak in opposition to the matter. Hearing none, the Chair opened the floor for a motion.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the request for a **Landscape Area and Tree Planting Variances to allow 8.7% of**

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the site to be landscaped, and to reduce the number of perimeter trees and parking trees to zero in a B-2, Neighborhood Business District, subject to the following conditions:

- 1) coordination with Urban Forestry to provide as much tree compliance as possible; and,**
- 2) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5540/5533

(Case #ZON2009-01320)

Joel Thomas Daves & Stephanie Daves

East side of Drury Lane, 365'± North of Wimbledon Drive West

Fence Height Variance to allow the construction of a 13.5 foot high wall along the rear and side property lines in an R-1, Single-Family Residential District; the Zoning Ordinance allows a maximum wall height of 8' along the property lines in an R-1, Single-Family Residential District.

Mr. Turner 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 Chair advised the applicants that if they so chose, due to Mr. Turner's recusal causing there to be the need for a unanimous vote for the matter to pass, the matter could be held over.

Joel Daves, the applicant, requested the matter be held over.

Hearing no further discussion, a motion was made by Mr. Davis, with second by Mr. Coleman, to hold the matter over at the request of the applicant.

The motion carried unanimously.

#5541

(Case #ZON2009-01321)

Charles J. Floyd

1512 Azalea Road

South side of Azalea Road, 295'± East of Halls Mill Road

Maneuvering Variance to allow vehicles to utilize the street right-of-way as a maneuvering area to back into a proposed truck well in an I-1, Light Industry District; the Zoning Ordinance requires all access and maneuvering area for loading facilities to be furnished off the street right-of-way and so arranged that vehicles are not required to back from the street into the loading area in an I-1, Light Industry 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 Chair noted there was no one in attendance for the matter and opened the floor for a motion.

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Hearing no discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to deny the above referenced request for a variance, based upon the staff's report, recommendations, and lack of support.

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: May 3, 2010

Chairman of the Board

/jsl