

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF JULY 11, 2011 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

J. Tyler Turner\*

**STAFF PRESENT**

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

**OTHERS PRESENT**

Butch Ladner, Traffic Engineering  
Gerard McCants, Urban Forestry  
John Forrester, City Engineering  
George Davis, City Engineering

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:**

**#5670**

**(Case #ZON2011-00664)**

**Mr. Rooter Plumbing**

2409 Wolf Ridge Road

(Southwest corner of Wolf Ridge Road and Feed Mill Road [private street]).

**Use, Setback, Parking, Maneuvering, Access, Surfacing, Buffer, Fence Height, and Multiple Buildings Variances to allow a Plumbing Contractor with multiple buildings on a single building site without Planned Unit Development approval, a building within 20 feet of the front property line, substandard access ways and maneuvering area, no designated parking, dirt and aggregate surfacing, no appropriate buffers, and a 6-foot high privacy fence within the front building setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires all buildings to be set back at least 25 feet from the front property line, only one building on a single building site unless approval of a Planned Unit Development has been obtained, all two-way access ways and maneuvering areas to be at least 24 feet in width, 8 parking spaces for 2,250 square feet of office/work space, all access ways, maneuvering area, and parking to be paved with concrete or asphalt, appropriate**

**July 11, 2011**  
**Board of Zoning Adjustment**

**buffers between commercial and residential properties, for privacy fences to be no higher than 3 feet within the front yard setback, a minimum of a B-3, Community Business District zoning.**

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.

Don Williams, Williams Engineering, 6300 Picadilly Square Dr., Mobile, AL, spoke on behalf of the applicant, Mr. Rooter Plumbing and made the following points in favor of the matter:

- A. Gave the brief history of the property.
- B. Noted that it was a very quiet operation with no manufacturing being done. The plumbing company was on-call and they went off-site to fix the customers plumbing problems.
- C. Stated that they were putting up a 6 foot high wood privacy fence in line with the front of the building so that the driveway in the front would look residential.

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. Davis to deny the above referenced request.

The matter carried unanimously.

**#5674**

**(Case #ZON2011-00955)**

**Gulf Coast Hub Caps & Wheels**

3257 Spring Hill Avenue

(Southwest corner of Spring Hill Avenue and Durant Street)

**Side Street Setback and Site Coverage Variances to allow a building expansion within 4.5' of a side street property line and 54% site coverage in a B-3, Community Business District; the Zoning Ordinance requires a 20' side street building setback and allows 50% maximum site coverage 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.

Don Williams, Williams Engineering, 6300 Picadilly Square Dr., Mobile, AL, and Jerry Byrd, Byrd Surveying, 2609 Halls Mill Rd., Mobile, AL, spoke on behalf of the applicant, Gulf Coast Hub Caps & Wheels and made the following points in favor of the matter:

**July 11, 2011**

**Board of Zoning Adjustment**

- A. Noted that the applicant did a One Lot Subdivision a few yrs back on Durant St. At that time, he had to dedicate 5 feet or widen it on that side. The site had given up land that had created some of these minimum side yards.
- B. Stated that they were proposing to take down the metal fence. They wanted to cut the building back. On Durant Street, the corner of the building would be 14.3 feet from the curb line and the building across the street would be 14 1/2 feet from the curb line. Visually, there would be no difference if they were allowed to cut it back to that point and let it be 4 1/2 feet away from the Right of Way line.

Mr. Milling asked if permits had been obtained for the various building expansions.

Mr. Byrd stated that apparently not for most of the expansion.

Mr. Palombo stated that the staff had issues with the proposed dumpster location as well.

A discussion about the location and access ensued. It was determined that the dumpster location should be subject to approval by Traffic Engineering.

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

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

- 1) **The Dumpster Truck Maneuvering area must be completely on site and approved by Traffic Engineering;and**
- 2) **Full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

**EXTENSIONS:**

**#5613**

**(Case #ZON2010-00956)**

**Board of Water and Sewer Commissioners of the City of Mobile**

East side of Shelton Beach Road Extension, 2/10 mile± North of Moffett Road.

**Use, Buffer and Parking Surface Variances to allow a contractor's storage yard in a B-3, Community Business District (rezoning pending), with a partially open buffer fence and gravel equipment parking surface; the Zoning Ordinance requires I-1, Light Industry District, for a contractor's storage yard, with the storage area to be completely enclosed with an 8' high wall or fence, and the equipment parking area to be paved in asphalt, concrete, or an approved alternative paving surface.**

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.

**July 11, 2011**  
**Board of Zoning Adjustment**

Ray Miller, Volkert Engineering, 3809 Moffett Rd., Mobile, AL, spoke on behalf of the applicant, Board of Water and Sewer Commissioners of the City of Mobile and made the following points in favor of the matter:

- A. Stated that MAWSS was pursuing acquiring the property that was adjacent to this and to the south of it. They owned a parcel that was adjacent and south of it as well. The purpose of requesting the second extension was to more effectively analyze the use of all of those MAWSS on the properties before they began construction on the 6 acre parcel.

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

A motion was made by Mr. Metcalfe, with second by Mr. Coleman to approve the above referenced request for six months.

The matter carried unanimously.

**PUBLIC HEARINGS:**

**#5683/4415**

**(Case #ZON2011-01114)**

**Team Holdings, LLC**

1307 Government Street

(Southwest corner of Government Street and Michigan Avenue).

**Sign Variance to allow a total of 82.7 square feet of signage for a single business site in the Leinkauf Historic District in a B-2, Neighborhood Business District; the Zoning Ordinance allows a maximum total of 64 square feet of signage in a Historic 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.

Neither the applicant nor a representative was there to speak on behalf of the application.

Bill Kringel, President of Grace Lutheran Church, 1356 Government St., Mobile, AL, spoke against the applicant, Team Holdings and made the following points opposing the matter:

- A. Stated that the approval of the sign request would set the precedent for future sign requests.

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 asked if there were those in favor of the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

Due to the fact that no one was there to speak for the application, a motion was made to deny the Variance.

**July 11, 2011**  
**Board of Zoning Adjustment**

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

The matter carried unanimously.

**#5684**

**(Case #ZON2011-01421)**

**Karen H. Zelaya**

266 Pinehill Drive

(West side of Pinehill Drive, 260'± North of Airport Boulevard)

**Front Yard Setback Variance to allow the construction of a porch within 20.2' of the front property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 25' minimum front 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.

Karen Zelaya, 266 Pinehill Drive, Mobile, AL, and Joseph H. Daugherty, J&D Construction, 6413 Bay Rd, Mobile, AL, spoke on behalf of the applicant, Karen H. Zelaya and made the following points in favor of the matter:

- A. Noted she was seeking to get approval to build a porch.
- B. Stated that construction plans showed that the porch stood out 2 feet further than was allowed.
- C. Stated that she had pictures that documented every porch on the road that stood out further than the 25 feet minimum building setback line.
- D. Noted that some existing porches were 10 feet off of the property.

The Board asked questions of the applicants, regarding the proposed setback, the construction of the porch, and its proposed use.

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 request subject to the following condition:

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

The matter carried unanimously.

July 11, 2011  
Board of Zoning Adjustment

**#5685**

(Case #ZON2011-01429)

**Joe Stevens with Advanced Disposal Services Gulf Coast, LLC**

**6225 Rangeline Road**

(East side of Rangeline Road, 1400'± North of Old Rangeline Road).

**Parking Surface Variance to allow a gravel parking and maneuvering area for a disposal and recycling facility in a B-5, Office-Distribution District; the Zoning Ordinance requires parking and maneuvering areas to be paved with asphalt, concrete, or an approved alternative paving surface in a B-5, Office-Distribution 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.

Vince LaCoste, Polysurveying Engineering, 5588, Jackson Rd., Mobile, AL, spoke on behalf of the applicant, Joe Stevens with Advanced Disposal Services Gulf Coast and made the following points in favor of the matter:

- A. Stated that they were requesting a Holdover because the client has changed their mind as to the size of the addition to the building.

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. Metcalfe to holdover the above referenced request.

**Heldover to the August meeting to allow the applicant to revise the site plan to incorporate a building expansion greater than that shown on the submitted site plan.**

The matter carried unanimously.

**#5686**

(Case #ZON2011-01456)

**Wrico Signs for Checkers Drive-In Restaurants, Inc.**

2213 Airport Boulevard

(Southeast corner of Airport Boulevard and Westwood Street).

**Sign Variance to allow a total of four (4) signs (one (1) freestanding and three (3) wall signs) on a single business site, including signage that projects above the roof line in a B-2, Neighborhood Business District; the Zoning Ordinance allows a maximum of three (3) signs with none projecting above the roof line for a single business site 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.

**July 11, 2011**

**Board of Zoning Adjustment**

Wade Wright, Wrico Signs, 3345 Halls Mill Rd., Mobile, AL, and Arnie Thies, 1743 Andover Rd., Columbus, OH, spoke on behalf of the applicant, Wrico Signs for Checkers Drive-In Restaurants and made the following points in favor of the matter:

- A. Noted that this was a prototype for Checkers Drive-In restaurant and the only store of its kind. They were requesting three building signs and one pylon sign. One sign would be on the front of the building, one over the patio canopy and one over the drive-through canopy.
- B. Stated that the two canopy signs over the patio and drive-through would be centered on the fascia as opposed to below the top of the fascia. The location would retain the structural integrity of the sign and sign cabinet, recognizing that there would be a substantial wind load, i.e. the more surface area attached to the fascia would then make the sign more stable.
- C. Noted that the third building sign would face over the drive-through canopy. It was necessary to catch the visibility of the traffic going from east to west on Airport Boulevard.

The Board questioned the applicant about the precedent for the signage, the consideration of a monument sign for greater neighborhood compatibility, and the need for so much signage.

The Board asked about the hardships of the variance requests.

Mr. Thies stated it was the prototype for a new type of store. And that this was typical of their Chain to have signs over the high and low side canopies and on the front of the building.

The Board asked what signage was allowed by the Zoning Ordinance.

Mr. Palombo replied that they were allowed 30% of the face front on each side. They were allowed 2 wall signs and that those could be placed on any face front such as side, front or rear elevation.

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

Mr. Metcalfe made a motion to approve the application, but after discussion by the Board, he withdrew that motion and made a new motion to deny the variance requests, with second by Mr. Davis.

The matter carried unanimously.

**#5687**

**(Case #ZON2011-01459)**

**Walter Beckham & Clare King**

**July 11, 2011**  
**Board of Zoning Adjustment**

2502 Fairway Drive  
(Northwest corner of Fairway Drive and Courtney Street).

**Use Variance to allow a Home Occupation Art Studio including Photographic Studio, Darkroom and limited retail art sales in a detached structure in an R-1, Single-Family Residential District; the Zoning Ordinance requires Home Occupations to be conducted within the primary structure and occupy no more than 25% of the floor area; additionally, photographic studios are not generally allowed as Home Occupations.**

The Chair announced the matter, advising it had been recommended for denial. The Chair stated that there were two letters from neighbors in opposition to the variances requested. The Chairman asked the applicant to address the Board regarding the subject at that time.

Clare King and Walter Beckham, 2502 Fairway Drive, Mobile, AL, spoke on behalf of their variance requests, Walter Beckham and Clare King and made the following points in favor of the matter:

- A. Stated that the requests were to build a freestanding structure which would be a mixed use structure. It would be an Art Studio/Dark Room/a replacement for an existing garage.
- B. Noted it was more than an economic hardship. The proposed studio/storage could not be added onto any side of the house as it would destroy the porch, run into the Pecan Trees, and restrict natural light into the house.
- C. Stated that the proposed structure would provide room not only for both applicants to work on painting, photography, wood working and other artistic endeavors it would also provide room for the storage of lawnmowers and personal athletic equipment.
- D. Noted that an addition to the existing house would require removal of the bedroom and bathroom windows and re-plumbing of the entire house.

The Chair inquired about the nature of the artwork and where the artists currently prepared their work. The Chair also asked if there would be retail sales or portrait photography.

Mr. Beckham replied that he currently worked professionally with the University of South Alabama but that when he retired in November, he would need his own photography set-up for still life photographs, and matting and framing. He additionally added that there would be neither portrait studio nor any retail sales.

Mr. Milling asked if the garage would remain.

Ms. King stated that it would be replaced with a carport.

Ms. King noted that the neighbors directly to the east and northeast currently had commercial variances.

**July 11, 2011**  
**Board of Zoning Adjustment**

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 request, subject to the following conditions:

- 1) The applicant having no retail sales or signage on the site;**
- 2) The applicant is not to conduct classes on the site; and**
- 3) Full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

**#5688**

**(Case #ZON2011-01462)**

**Small's Enterprises, LLC**

953 Marine Street

(East side of Marine Street, 50'± South of Kentucky Street).

**Use Variance to allow a commercial overflow parking lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of B-1, Buffer Business District for a commercial parking lot.**

The Chair announced the matter and announced that Mr. Davis was recused from this case. The Chair advised the applicant that the case had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Jerry Byrd, Byrd Surveying, 2609 Halls Mill Rd., Mobile, AL, spoke on behalf of the applicant, Small's Enterprises and Mr. Caracher Small, 953 Marine St., Mobile, AL, spoke on his own behalf, made the following points in favor of the matter:

- A. Stated that the Mortuary did indeed have the required number of parking spaces by City Code.
- B. Noted that some of the funeral services created an overflow out of the parking lot into the surrounding neighborhood. Due to the inconvenience to the neighborhood, the applicant was proposing to construct a new parking lot.
- C. Stated that the applicant owned the residential site where he proposed to build the parking lot. They were also attempting to have an alley vacated. If the alley was vacated, the applicant would connect the existing mortuary to the proposed additional parking.

Staff requested the Board strike a sentence from the staff report due to a staff error.

The Chairman asked if the site was in a historic district; and how many parking spaces were on the Mortuary site.

Mr. Byrd noted that currently it was not in an historical district.

**July 11, 2011**  
**Board of Zoning Adjustment**

Mr. Small stated that there were between 28-32 parking spaces.

Mr. Coleman asked how the residential structures would be used.

The applicant stated they were to be renovated and rented as houses.

Mr. Metcalfe inquired about buffer fencing.

Mr. Byrd stated that they would provide a 3 foot high fence along the park or vegetative buffer on Marine Street to shield the parking from the residence.

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. Reilly to approve the above referenced request, subject to the following conditions:

- 1) The provision of proper buffering;**
- 2) The approval of Traffic Engineering;and**
- 3) Full compliance with all other municipal codes and ordinances including the provision of trees and landscaping.**

The matter carried unanimously.

**#5689**

**(Case #ZON2011-01466)**

**Pegasus Tower Company, LLC**

568 Western Drive

(East side of Western Drive, 60'± South of Crichton Street).

**Surface and Parking Ratio Variances to allow a gravel accessway and no designated parking space at a monopole communications tower site in an I-1, Light Industry District; the Zoning Ordinance requires accessways to be paved with asphalt, concrete or an approved alternative surface and also requires a minimum of one parking space on the tower site 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.

Staff stated that they had received a communication that the application would be withdrawn. However, it appeared that the applicant was not present. Staff stated that since no withdrawal had been undertaken, action by the Board would be required.

**July 11, 2011**  
**Board of Zoning Adjustment**

The Chair asked if there were any 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 deny the above referenced request.

The matter carried unanimously.

**#5690**

**(Case #ZON2011-01467)**

**Ellis Harper**

3265 Club House Road

(East side of Club House Road, 100'± North of Gill Road).

**Side Yard and Combined Side Yard Setback Variances to allow the construction of a dwelling within 5.1' of the Northern side property line and within 10' of the Southern side of the property line and a combined side yard setback of 15.1' on a 58 foot wide lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard of 8' on one side and 11.3' on the other side with a combined side yard of 19.3' on a 58' wide lot 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.

Brett Orell, Polysurveying, 5588 Jackson Rd., Mobile, AL, spoke on behalf of the applicant, Ellis Harper and made the following points in favor of the matter:

- A. Stated that this was a one lot subdivision and was a very irregular shaped lot. In the subdivision process, 10 additional feet had been dedicated on Clubhouse Road. The house was sitting back on the property.

Staff stated that it appeared that the applicant had a house plan that was very close to complying with setbacks, but redesigning would be costly. Staff suggested the Board entertain approval of reduced setbacks, but require gutters and downspouts.

Mr. Orell stated he was willing to provide gutters and downspouts.

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 request, subject to the following conditions:

- 1) **The provision of gutters and downspouts along the side yard eaves;and**
- 2) **Full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

#5691

(Case #ZON2011-01494)

**Jubileescape**

206 Maryland Street

(East side of South Franklin Street, 330' ± North of Virginia Street and extending to South Conception Street).

**Surfacing and Buffer Fence Variances to allow the construction of a contractors storage yard with aggregate surfacing and a chain link buffer fence in an I-1, Light Industry District; the Zoning Ordinance requires maneuvering areas to be surfaced with asphalt, concrete or an approved alternative surface and for the storage yard to be enclosed within a 8' foot high solid wall or fence in an I-1, Light Industry District.**

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

Robin Luce, 69 Oakland Ave., Mobile, AL, spoke on behalf of the applicant, Jubileescape and made the following points in favor of the matter:

- A. Stated that this was a Landscape Business.
- B. Noted that the Zoning Ordinance required an 8 foot privacy fence but that the location near the Mobile Bay would subject the site to winds, which could damage the fence. Also, a privacy fence would reduce visibility into the business, reducing security of the business as compared to an open fence.
- C. Noted that the track-based equipment that was used by the business would damage the paved surface. And in addition, that same paved surface would damage the equipment.

Mr. Coleman asked the applicant to clarify if any fencing was proposed.

The Chair asked if barbed-wire or similar was proposed.

The applicant stated that he desired an open chain link fence with security topping, such as barbed wire.

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. Milling, with second by Mr. Metcalfe to approve the above referenced request, subject to the following conditions:

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

The matter carried unanimously.

**July 11, 2011**  
**Board of Zoning Adjustment**

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED:**            May 7, 2012

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Chairman of the Board

/sg