

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF SEPTEMBER 12, 2011 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

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

MEMBERS ABSENT

Russell Reilly*
J. Tyler Turner*
*supernumerary member

STAFF PRESENT

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

OTHERS PRESENT

John Lawler, City Attorney
Butch Ladner, Traffic Engineering
Gerard McCants, Urban Forestry
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 stated there were 5 regular members and no supernumerary members present, constituting a quorum. He advised it required four members to vote in the affirmative to approve a variance and called the meeting to order.

HOLDOVERS:

#5695

(Case #ZON2011-01672)

Alabama Realty Company, Inc.

2600 McVay Drive North

(North side of McVay Drive North, 290'± West of Navco Road)

Height, Residential Buffer, Setback, Surfacing, Parking, Landscaping and Tree Planting Variances to allow the construction of a 130' tall communications tower within 50' of a residentially zoned property with no landscape buffer or buffer fence, and within 69.8' of the North lease parcel line, 50' of the West lease parcel line, and 103.5' of the South lease parcel line, with a gravel access drive, no designated parking, and no landscaping or tree plantings in a B-1, Buffer Business District (rezoning pending); the Zoning Ordinance restricts height to 45' and requires a residential buffer of 200' with a either a 10' wide, 6' high vegetative buffer or a 6' high wooden privacy fence, setbacks of 130' from each lease parcel line, all driveways to be surfaced with asphalt, concrete, or an approved alternative surface, at least one designated parking space, and tree plantings and landscaped area in a B-1, Buffer Business District.

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The Chair announced the matter, advising staff had recommended approval for the Height, Separation Buffer, and Setback Variance requests but the requests for Surfacing, Parking, and Landscaping and Tree Planting Variances were recommended for denial. He stated 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 application, and made the following points in favor of the matter:

- A. said it was a low use driveway as each week one company employee would drive to the site to check it so no additional parking spaces would be needed;
- B. the request for a waiver of solid surfacing replacing it with an aggregate surface was due to the fact the general public would not be using the driveway leading to the cell tower; and,
- C. the site was wooded and only the area near the driveway and cell tower site would be cleared, leaving the rest woodland, which was felt to meet the intentions of the landscaping and tree planting requirements of the ordinance.

Mr. Coleman asked if the apron would be paved.

Mr. Byrd replied the paved concrete apron would be to the right-of-way property line at the street but the driveway would be aggregate to the cell tower site.

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 approve the above referenced request, subject to the following condition:

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

The matter carried unanimously.

#5699 / 5325

(Case #ZON2011-01701)

The Wooden Boat Ministry

360 Rapier Avenue

(Northwest corner of Rapier Avenue and Texas Street)

Use, Parking Ratio, Landscaping and Tree Planting Variances to allow an existing 3,255 square foot building to be used as a non-profit boat building operation with no on-site parking and no landscaping and tree plantings in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum I-1, Light Industry District for a boat building operation, eleven on-site parking spaces, that 12% of the site be landscaped with 60% landscaping within the front of the building line, and the planting of five overstory and two understory trees.

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The Chair announced the matter, advising the Use Variance had been recommended for denial, making the requests for Parking Ratio, Landscaping, and Tree Planting Variances unnecessary. He said the applicant should address the Board regarding the subject at that time.

Jonathan Stebbins, 2175 O'Rourke Dr., Mobile, AL, spoke on his own behalf and made the following points to support the application:

- A. off-site parking had been secured at Crawford-Murphy Park, located near the property in question; and,
- B. the applicant requested the be held over, since they had not gotten the information to staff in time for them to adequately review it prior to the meeting;
- C. inquired if re-zoning the property from an R-1 to B-3 would be a better classification based upon the proposed endeavor since there would not be mass produce ships at the location and they would function with no more negative impact than a cabinet shop.

Mr. Metcalfe stated if the applicant wanted a change in zoning classification that would require going before the Planning Commission, however, to change the way a specific property might be used could be accomplished with a Use Variance and either action would need to be discussed with staff in their office outside of the meeting.

Mr. Guess noted the off-site parking would also be a matter to discuss at the next meeting, if the requested holdover was approved.

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

A motion was made by Mr. Coleman, with second by Mr. Metcalfe, to holdover the matter until the October 3, 2011, meeting, at the applicant's request.

The matter carried unanimously.

PUBLIC HEARINGS:

#5702/5678/5606/2239

(Case #ZON2011-01898)

Jada and Willie McElroy

1350 Arlington Street

(Northwest corner of Arlington Street and Olive Street)

Protection Buffer Variance to waive the requirement of a 6' high wooden privacy fence along a property boundary with adjoining residential property for a commercial site in an R-1, Single-Family Residential District (B-2, Neighborhood Business District use by Variance); the Zoning Ordinance requires a 6' high protection buffer wall or fence along a property boundary with adjoining residential property for a commercial site in an R-1, Single-Family Residential District with a B-2, Neighborhood Business District Use Variance.

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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.

Jada McElroy, 1350 Arlington St., Mobile, AL, spoke on her own behalf and made the following points to support the application:

- A. said there had been a chain link fence surrounding the property for 20 years;
- B. there were safety concerns if a solid fence or buffer were put in place as those might block site lines for staff leaving the building as a solid fence would protect someone with harmful intent from view of passers by and neighbors, whereas a see through fence would allow the community to monitor activities;
- C. due to the decline in the economy, copper theft from air conditioners had risen and a solid fence or buffer would protect a would-be thief from discovery by neighbors; and,
- D. neighbors directly behind the building and to the north said they were in favor of keeping the chain link fence since it allowed others to keep an eye on their property.

Mr. Metcalfe asked what type fence the applicant thought would be more appropriate and preferred.

Mrs. McElroy replied she would prefer a chain link 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. Davis, with second by Mr. Coleman, 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.

#5703

(Case #ZON2011-01935)

Energy Pipe & Supply – AL LLC

6135 Rangeline Service Road

(East side of Rangeline Service Road, 0.4 mile± North of Old Rangeline Road)

Parking Surface Variance to allow an aggregate surface for a pipe inventory storage yard in a B-5, Office-Distribution District; the Zoning Ordinance requires storage yards to be paved in 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 approval and that the applicant should address the Board regarding the subject at that time.

- Jay Stallworth, Energy Pipe & Supply, 57 George St., Mobile, AL, spoke on his own behalf; and,

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- John Williams, City of Mobile Councilmember for District 4, 3905 St. Andrews Loop West, Mobile, AL, spoke on behalf of the application

They made the following points in favor of the matter:

- A. the company supplied materials such as pipe, valves, and fittings to industrial companies;
- B. this new company would bring good business to the area and would be there for a long time;
- C. surfaces such as blacktop or asphalt when coupled with heat, weight, and heavy machinery would be easily destroyed;
- D. as a maneuvering surface an aggregate product worked better with the equipment that transported pipe from their lay down yard to trucks;
- E. an aggregate surface was more permeable and would not create an issue with stormwater run-off; and,
- F. the surface was aesthetically pleasing and in keeping with the other industrial neighbors.

Mr. Guess asked if the clay seen in pictures had been there originally.

Mr. Stallworth responded the property had been inherited in the condition shown.

Mr. Milling asked why the applicant was against using asphalt as their surfacing medium.

Mr. Stallworth replied asphalt was not commonly used on industrial lay down yards due to the combination of heat and weight destroying the surface. He also noted a concrete surface would be cost prohibitive.

Mr. Coleman asked how the pipes would be moved to the trucks.

Mr. Stallworth replied flatbed trucks would park on the concrete, parallel to the north-south line that delineated the concrete and the gravel surfaces and the pipes would be loaded via fork-lift from the graveled lay down yard to where the flat bed trucks would be situated.

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. Coleman, 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.

#5704

(Case #ZON2011-001977)

Hathaway, LLC

4477 Laughlin Drive South

(South side of Laughlin Drive South, 380'± East of its West terminus)

Parking Surface Variance to allow gravel parking for a heavy equipment sales and display area in an I-1, Light Industry District; the Zoning Ordinance requires parking areas to be paved with asphalt, concrete, or an approved alternative paving surface in an I-1, Light Industry District.

The Chair announced the matter, advising staff had recommended denial of the surfacing variance for the required parking and the maneuvering areas, and approval of the surfacing variance for the equipment storage and sales yard only. He advised the applicant should address the Board regarding the subject at that time.

Don Rowe, Rowe Surveying, 3755 Cottage Hill Rd., Mobile, AL, spoke on behalf of the application and made the following points in favor of the matter:

- A. the applicant was in agreement with staff's recommendations for approval regarding the equipment storage and sales yard;
- B. stated a request for approval of the use of aggregate materials for the maneuvering area had accidentally been omitted when the application was submitted;
- A. said Volvo was a heavy equipment company that sold track and off-road vehicles; and,
- B. low boy trucks and bulldozers were used in the heavy equipment area and maneuvering said equipment would tear up the asphalt, so aggregate surfacing was a much better maneuvering surface for vehicles of that kind.

Mr. Metcalfe asked if there was any kind of slope to the property.

Mr. Rowe noted the ground was steep from the building all the way to I-10, and it was all back slopes with a similar situation on the west side.

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 deny the request for gravel surfacing for the employee/visitor parking area and to approve the request for gravel surfacing for the heavy equipment parking area and maneuvering areas, subject to the following condition:

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

The matter carried unanimously.

#5705/5673

(Case #ZON2011-001990)

New Cingular Wireless, LLC

42 South Hamilton Street

(Southwest corner of South Hamilton Street and Conti Street)

Side and Rear Setback Variances to amend a condition of approval of previously- granted Side and Rear Setback Variances to allow a 67' high cell on wheels (COW) mobile telecommunications facility for special events to be located 15' off a side property line and 59' off the rear property line in a B-4, General Business District; the Zoning Ordinance requires the property line setback for telecommunications facilities be at least equal to the height of the facility (67') off all property lines in a B-4, General Business District.

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

Andy Rotenstreich, Haskell Slaughter, 1400 Park Place Tower, Birmingham, AL, spoke on behalf of the application and made the following points in favor of the matter:

- A. the cell tower on wheels or C.O.W. was a truck with a 67' mast that extended up from the truck box;
- B. a letter from a licensed engineer stating the truck would not withstand the 135 miles per hour wind speed requirement had been submitted to the Planning staff; and,
- C. a flood evacuation plan had been brought to the Planning staff to illustrating their evacuation plan to drive north to a safe place if a hurricane was imminent.

Mr. Guess asked when the letter regarding wind speed and the flood evacuation site plan had been submitted to staff.

Mr. Rotenstreich replied the materials had been delivered to staff that morning.

Mr. Palombo said the flood plain manager would need to review the materials received that day, however, the applicant would need to meet any conditions formulated based upon that review before the matter could be approved.

Mr. Rotenstreich stated they were asking for approval to waive the 135 miles per hour wind speed requirement.

Mr. Palombo noted, should the Board choose to waive that requirement, the staff had prepared conditions for approval. The Chair asked him to read those, as follows, into the record:

- A. the tower could only be placed on the site during the two-week period surrounding Bayfest and the five-week period surrounding Mardi Gras, the exact dates to be determined based on the actual dates of those events;
- B. submittal of an acceptable Floodplain Evacuation Plan to the City of Mobile's Floodplain Manager;
- C. construction of a temporary, 8-foot high chain link fence (without barbed wire) around the tower and equipment while the tower and equipment are on site;

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- D. the applicant or operator would obtain a building permit and zoning inspection each time the tower and equipment were placed on the site; and,
- E. full compliance with all municipal codes and ordinances.

The Chair asked if the applicant was in agreement with the conditions as read and was advised they were.

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

- 1) **the tower only be placed on the site during the two-week period surrounding Bayfest and the five-week period surrounding Mardi Gras, the exact dates to be determined based on the actual date of the event;**
- 2) **submittal of Floodplain Evacuation Plan acceptable to the City of Mobile's Floodplain Manager;**
- 3) **construction of a temporary, 8-foot high chain link fence (without barbed wire) around the tower and equipment while the tower and equipment are on site;**
- 4) **the applicant or operator obtain a building permit and zoning inspection each time the tower and equipment are placed on the site; and,**
- 5) **full compliance with all municipal codes and ordinances.**

The matter carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: July 2, 2012

/s/ William Guess
Chairman of the Board

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