

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF SEPTEMBER 8, 2008 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

William Guess, Vice Chairman
Vernon Coleman
Samford Davis
Mack Graham
*supernumerary member

MEMBERS ABSENT

Reid Cummings, Chairman
Russell Riley*
J. Tyler Turner*

STAFF PRESENT

Bert Hoffman, Planner II
Caldwell Whistler, Planner I
Joanie Stiff-Love, Secretary II

OTHERS PRESENT

John Lawler, city attorney
David Roberts, Traffic Engineering
Butch Ladner, Traffic Engineering
David Daughenbaugh, 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.

HOLD OVERS:

#5479/3588

(Case #ZON2008-01535)

Howard C. Melech

2704 Old Shell Road

Northwest corner of Old Shell Road and North Mobile Street

Use, Parking Surface, Parking Ratio, and Tree and Landscaping Variances to amend a previously approved Use Variance to allow the expansion of a boat repair shop with aggregate vehicle parking and boat storage areas, undesignated parking area, and no proposed tree plantings and landscaping areas in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum B-3, Community Business District with Planning Approval for boat repair, with concrete, asphalt, or an approved alternative paving surface for vehicle parking and boat storage, an appropriate number of designated parking spaces, street frontage landscaping and frontage and perimeter tree plantings in a B-2, Neighborhood Business District.

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

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David Conrad, Attorney at Law, stated he represented Mr. Melech and requested another hold over to allow for more time to gather information.

Hearing no opposition or further discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to hold the matter over until the October 6, 2008, Board of Zoning Adjustment meeting.

The motion carried unanimously.

PUBLIC HEARINGS:

#5493

(Case #ZON2008-02081)

Warren Carmichael

256 South Cedar Street

West side of South Cedar Street, 90'± South of Eslava Street

Rear Yard Setback Variance to allow the construction of a greenhouse addition to a single-family dwelling within 3.5' of a rear property line in an R-1, Single-Family Residential District with R-B, Residential-Business District setbacks applicable; the Zoning Ordinance requires a 5' rear yard setback for all structures in an R-1, Single-Family Residential District with R-B, Residential Business District setbacks applicable.

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

Warren and Jacquelyn Carmichael, 256 South Cedar Street, Mobile, AL, spoke on their own behalf saying they were one of the original families to move back into the neighborhood when the East Church Street area was re-vitalized some 8 years prior, and, that the greenhouse had been installed approximately 5 years before.

Mr. Guess asked if the greenhouse had been built without benefit of permit and Mrs. Carmichael said that was why they were there to get a variance.

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.

Gail Stillwell, 245 South Warren Street, Mobile, AL, spoke in opposition and said the structure in question is more of a storage shed than a greenhouse, making it a haven for vermin as well as it being an eyesore. She added that it had been built without benefit of permitting and it should not be allowed after the fact.

Mr. Coleman noted there was a fence separating the neighbors and asked the height of that fence and was advised that it was 8 feet in height.

Mr. Coleman asked Ms. Stillwell if her main concern was that the building was unsightly.

Ms. Stillwell said that was just one problem she had with it, however, as it attracted roaches and rodents and she had had problems with those and that was her main concern.

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Mr. Coleman asked why she attributed those to the Carmichaels' structure.

Ms. Stillwell said they came from that area and showed pictures that she stated showed the structure as un-kept.

Mr. Coleman asked Ms. Stillwell if the building were opaque would that help matters any.

Ms. Stillwell answered that if the building were opaque and the color of the back of the building was tasteful, she would not have any issues with it.

Mr. Guess asked the Carmichaels if, at the structure's original construction, they had planned that it be enclosed.

Mr. Carmichael said it was planned as an enclosed structure to protect their plants and such during bad weather (i.e. hurricanes.)

Mr. Guess asked the staff what was the required setback in this area, as it was located in one of the city's historic overlays.

Mr. Hoffman advised that based upon the area's previous zoning of R-B, Residential-Business District, the setback for the area was supposed to be 5 feet, as after the area was re-zoned from the R-B classification to the R-1, Single-Family Residential District the original setbacks were retained.

The Chair asked if the staff had received any calls regarding the matter.

Mr. Whistler stated that he knew of none. He also advised the Board that they should take into consideration the fact that the home was located in the Church Street East Historic District and if the members were contemplating approving the matter, he suggested that approval should also contain the condition that the matter also be approved by the city's Architectural Review Board.

The Chair, hearing no further opposition or discussion, asked for a motion.

Mr. Graham moved to deny the matter, however, the motion failed for lack of a second.

Mr. Coleman moved to approve the matter, with second by Mr. Guess.

The motion failed with Mr. Guess, Mr. Coleman, and Mr. Davis voting in favor of the motion and Mr. Graham voting in opposition, so the Board denied the request for a **Rear Yard Setback Variance to allow the construction of a greenhouse addition to a single-family dwelling within 3.5' of a rear property line in an R-1, Single-Family Residential District with R-B, Residential-Business District setbacks applicable; the Zoning Ordinance requires a 5' rear yard setback for all structures in an R-1, Single-Family Residential District with R-B, Residential Business District setbacks applicable** at the above referenced location.

5494
(Case #ZON2008-02086)

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Bobby & Julie Threlkeld
4705 Sherry Court

South side of Sherry Court at its West terminus

Side Yard Setback Variance to allow the construction of an 18' x 18' gazebo within 3.1' of a side yard property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' side yard setback for all structures in an R-1, Single-Family Residential District.

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

Bobby Threlkeld, 4705 Sherry Court, Mobile, AL, spoke on his own behalf. He said the project had begun as a deck, but then his wife decided she wanted a gazebo as well. She suggested purchasing one at Sam's, but the applicant felt he could build one more cost effectively. He stated he had failed to get enough information regarding building such a structure in the city and the project was already underway.

The Chair asked if in review the property the applicant had looked for other locations on the property to place the gazebo.

Mr. Threlkeld said he had and added the property had a number of oak trees located on it which hindered moving its placement. He added that it was now part of the original deck project.

Mr. Coleman discussed with the applicant the option of redesigning the deck so that the gazebo was to the rear of said deck as opposed to the side.

Mr. Whistler commented that if the applicant moved the deck to the southeast somewhat, he might be able to achieve the 8 foot setback.

The Chair asked if there were any more questions for the applicant. He also noted for the record that there were no others in attendance to speak in favor or opposition to the matter.

Mr. Hoffman reminded the Board that when a structure was less than 5 feet from a property line, the Board had required that gutters and downspouts be installed in some cases.

The Chair called for a motion.

A motion to approve was made by Mr. Coleman, with second by Mr. Davis, after which the Chair called the vote. The motion failed with Mr. Coleman and Mr. Davis voting in favor of it and Mr. Guess and Mr. Graham voting in opposition, therefore the Board denied the request for a **Side Yard Setback Variance to allow the construction of an 18' x 18' gazebo within 3.1' of a side yard property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' side yard setback for all structures in an R-1, Single-Family Residential District** at the above referenced location.

5495
(Case #ZON2008-02088)

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Robert Wilbanks

121 Myrtlewood Lane

West side of Myrtlewood Lane, 160'± North of Stein Avenue

Side Yard Setback and Combined Side Yards Variances to allow the construction of a 23' x 39' garage addition within 10' of a side yard with 18' combined side yards in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 12' side yard setback with combined side yards of 20' in an R-1, Single-Family Residential District.

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

Don Williams, Williams Engineering, spoke on behalf of the applicant and made the following points:

- A. the plan was to tear down an old storage shed that was two feet from the side property line as part of the construction, thereby creating a need on the property for storage space;
- B. adding the garage with storage and expanding the master bedroom would put the proposed structures short within the 12 foot side yard setback on the right side and the combined 20 feet necessary for the two side yards together; and,
- C. noted the house sat on the property at a skewed angle which placed the points of the house too close to the setback lines.

The Chair also noted there was a large tree on the lot that appeared to have some bearing on the placement of the proposed project.

The Chair asked why the addition to the master bedroom had not been considered for the back of the house.

Mr. Williams stated there was drainage into the backyard as the backyard was some 2 to 3 feet higher in elevation than the house itself and it was not practical because of such.

The Chair asked if there were any further questions from the Board for the applicant's representative and hearing none, he opened the floor for a motion.

A motion was made by Mr. Coleman, with second by Mr. Davis, to approve the request for **Side Yard Setback and Combined Side Yards Variances to allow the construction of a 23' x 39' garage addition within 10' of a side yard with 18' combined side yards in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 12' side yard setback with combined side yards of 20' in an R-1, Single-Family Residential District** at the above referenced location.

The motion carried unanimously.

OTHER BUSINESS:

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Dave Roberts, Traffic Engineering, announced his retirement in the coming year and introduced his replacement to the Board of Zoning Adjustment, Butch Ladner. Mr. Roberts stated his enjoyment in working with the Board over the past years.

The Chair, on behalf of all the Board members, wished Mr. Roberts well and welcomed Mr. Ladner.

There being no further business, the meeting was adjourned.

APPROVED: April 5, 2010

Chairman of the Board

/jsl