

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF FEBRUARY 6, 2006 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Reid Cummings, Chairman  
Stephen J. Davitt, Jr.  
William Guess  
Martha Collier  
Vernon Coleman  
Sanford Davis  
J. Tyler Turner

**MEMBERS ABSENT**

**STAFF PRESENT**

Margaret Pappas, Planner II  
Frank Palombo, Planner I  
Mae Sciple, Secretary II

**OTHERS PRESENT**

David Daughenbaugh, Urban Forestry  
John Lawler, Assistant City Attorney

Chairman Cummings noted the number of members present constituted a quorum and called the meeting to order.

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

**APPROVAL OF MINUTES:**

A motion was made by Mr. Davitt and seconded by Mr. Coleman to approve the minutes of the meetings of December 5, 2005, and January 9, 2006, as submitted.

The motion carried unanimously.

**PUBLIC HEARINGS:**

**#5342**

**(Case #ZON2006-00003)**

**JJT, An Alabama General Partnership**

**1147 East I-65 Service Road South**

(Northeast corner of East I-65 Service Road South and International Drive)

**Fence Height Variance to allow the construction of a 6-foot high wooden privacy fence approximately 190 linear feet along International Drive (side street) property line; a maximum fence height of 3' is allowed within the required 20-foot side yard setback along a side street (International Drive).**

Frank Dagley, 717 Executive Park Drive, was present representing the applicant. Mr. Dagley said Bullard Automotive was requesting this variance so they could construct a 6-foot high

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privacy fence to screen them from the Infiniti service building that was recently constructed. The service bays faced International Drive and it was somewhat unsightly with cars being parked there waiting for service, and the cars being serviced. They have also had a problem with theft and felt that a fence would be a deterrent. Mr. Dagley noted that the staff report referred to a visual triangle for traffic safety. He said the fence would stop about 125 feet from the center line of Sledge Drive, which intersects International Drive, and contended that a car stopping there would have plenty of visibility. Mr. Dagley said they did not feel the variance would be contrary to public interest. It would not be unsightly and it would certainly not detract from the neighborhood and would give a better appearance to the overall facility. They felt this was a reasonable request and should be granted.

Mr. Cummings asked if there was anyone present who wished to speak in favor of, or in opposition to, this application. No one came forward.

The Board had no questions of Mr. Dagley.

Mr. Daughenbaugh of Urban Forestry noted that there were some existing trees on this site which were required for a recent addition to the property. He asked if the installation of a fence would affect any of the trees or the existing vegetation.

Mr. Dagley said no, pointing out that there was a 3-foot green strip, a sidewalk, and then another 3-foot green strip before the fence.

Ms. Collier asked if there was going to be a gate in the fence.

Mr. Dagley replied that there would be a gate on the interior of the property, as the fence would actually turn back and would be beyond the setback. It would be fully on Bullard property.

Ms. Collier said it was hard for her to visualize a gate opening into the property because the grade at that point was so steep.

Mr. Dagley explained that the fence would actually run parallel to International Drive and then take a 90-degree turn toward the building. The grade Ms. Collier referred to was at the entrance to the Land Rover test site.

Ms. Collier said she was aware of that, but she saw this as a problem to pedestrians and it felt it would be hard for a car to stop.

Mr. Guess felt the concern was that a solid fence would obscure visibility when on entering or exiting that track. It was not like a chain link fence that you could see through.

Mr. Dagley said this was a test track and it was not like people would be running cars back and forth there. He suggested they could slope it back some to provide better visibility.

Mr. Cummings suggested that rather than sloping it back, that the portion of the fence that would obscure vision be built to a height of only 3 feet, as there was nothing to screen there and it would still provide security.

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Mr. Dagley agreed with Mr. Cummings' suggestion, and said he would work with the Traffic Engineer to decide how far the 3-foot fence needed to go. He also noted that the test track was designed by General Motors and was approved and permitted by the City.

Regarding the test track, Ms. Pappas said the applicant did submit to the City for proper permits and that Traffic Engineering was consulted heavily and approved the plans for the test track before it was permitted for construction.

Mr. Cummings felt that if a variance were granted along the lines of the 3-foot height beginning at the corner of where the test track currently crossed across the sidewalk, and from that point went four parking spaces to the west – approximately 35-40 feet – it would provide ample room to visibly be safe at a 3-foot height. You would probably go another 20-25 feet before you get to the rear, eastern edge of the back of the service building.

Mr. Dagley felt that would be a good compromise.

Ms. Collier asked if the exit onto the public sidewalk could be omitted and the fence just cover that, so that would not be the way in and out for the track.

Mr. Dagley said he did not feel that would work because the test track was built by the Land Rover manufacturer and they had certain specifications that had to be maintained by the dealer, and he felt blocking that off would not be acceptable to them.

Ms. Collier contended that if the driveway were blocked with a fence, there would be no way that a Land Rover could be at the top of that grade and safely come down, unless he had the street to come down into.

Mr. Dagley said he was not present to defend the track, but felt the fence and the traffic could be maintained in a safe manner if it was built as suggested by Mr. Cummings.

Mr. Cummings asked Mr. Dagley if he knew whether or not the track was designated as one way in and one way out. If not, he asked if making it one way in off of International Drive with your exit onto Sledge Drive would solve the problem. That way, you would have cars going away from there, not going towards the sidewalk.

Mr. Dagley said he could not answer that. The drawing showed arrows going both ways.

Mr. Davitt asked if there was a stop sign at the bottom of that grade.

Mr. Dagley said no, but they could certainly put one up.

Mr. Cummings further stated that if you could accomplish the security issue of some height of fence, and at the same time by a lower height create a situation where you have not made a presumed dangerous situation more dangerous, then perhaps the Board could look at that. He did not know if the Board could necessarily predicate on approval of a fence a designation of a one-way in, one-way out on that test track.

Mr. Lawler asked if the applicant owned the test track.

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Mr. Cummings said yes, it was inside their property, but it had a curb cut on International Drive and one on Sledge Drive. If the track was two-way, the Board could make it one-way. That way you only have vehicles going from the street onto the track and when they come off on the other end of it, there would not be a fence height issue because there would not be a fence. He asked Ms. Collier if that would alleviate some of her concern.

Ms. Collier still maintained that the track was using the public sidewalk as part of its existence.

Mr. Dagley said that was like any driveway in any business. You have to cross the sidewalk to get to the street. He also noted that the test vehicles would only be driven by staff, who were trained professionals, and they may have only one or two vehicles a week on the track.

Mr. Guess asked if there were any gates to restrict the public from accessing the test track on their own.

Ms. Collier commented that the track was open at 3:00 p.m. when she went to visit the site and she could have pulled into it.

Mr. Dagley said that was an issue with the track, and not with the fence they were trying to permit.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Coleman to approve this request for a Fence Height Variance to allow the construction of a 6-foot high wooden privacy fence approximately 190 linear feet along International Drive (side street) property line at the above referenced location, subject to one of the following:

- 1) that the test track allow one-way traffic only, by entering from International Drive and exiting to Sledge Drive; or
- 2) that the height of the fence be limited to 3 feet beginning at the easternmost point of the International Drive frontage, extending westwardly for 48 feet, and the installation of two stop signs (one on either side) where the test track driveway intersects with International Drive.

The motion carried.

**#5343**

**(Case #ZON2006-00014)**

**Pete J. Vallas (Dr. Helen H. Rogers, Owner)**

**1 Country Club Road**

(West side of Country Club Road at the North Terminus of Hillwood Road)

**Side Yard Setback and Total Combined Side Yard Setback Variances to allow additions and renovations to an existing residential structure within three-feet of the side (North) property line, and a total combined side yard of 11-feet; an eight-foot setback is required from a side property line, and a total combined side yard of 20-feet is required for**

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**residential structures on a lot 60 feet wide or wider in an R-1, Single-Family Residential District.**

Pete Vallas, architect, was present representing the applicant. Mr. Vallas said his client had let time lapse and did not realize when they went to get the building permit that the variance had expired. This application was for the same variance as previously approved. Mr. Vallas said the hardship in this case was that they had a very nice historic house in Spring Hill that was set further back from the road than the newer houses being built. It had been added onto poorly over the years, and some of the additions even crossed over some of the property lines. They were unattractive, flat-roofed concrete and did not go with the historic house which does have a historic marker on it. Mr. Vallas said they would like to tear down these additions and build more sympathetic additions matching the style of the house. In order to do that, and add in front of the house and hurt its façade, variances would be required. The footprint would be much less than the footprint of what was over the setback now.

Mr. Cummings noted that the staff had recommended approval with the condition of the provision of gutters and downspouts. He asked if this provision was previously required.

Ms. Pappas said the provision of gutters and downspouts was a condition of the previous approval.

Mr. Cummings asked if there was anyone else present to speak in favor or in opposition to this request. There was no response.

Mr. Guess asked if anything had changed in the plans since the previous approval.

Mr. Vallas said nothing had changed. The plans were identical.

Ms. Collier applauded the applicant for trying to manage this triangular-shaped piece of property in an aesthetically pleasing way. She asked if the Architectural Review Board (ARB) had approved this plan.

Mr. Vallas said he did not think the ARB had to approve it, as it was not in a historic district and would not come under their jurisdiction.

Ms. Pappas said she was not sure, noting that the house did have a banner and shield.

Mr. Vallas said if the applicant ever wanted to change the name on the banner, they would have to apply again, and they may be denied a new banner.

Mr. Cummings said the ARB does not issue the National Historic Register plaques.

Mr. Vallas said this was just a local banner and shield.

Mr. Cummings said the ARB would not deal with that.

Mr. Vallas further informed the Commission that they had gotten a site disturbance permit and had gone ahead and taken all the additions off of the house.

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After discussion a motion was made by Mr. Coleman and seconded by Mr. Guess to approve this request for the extension of the Side Yard Setback and Total Combined Side Yard Setback Variances to allow additions and renovations to an existing residential structure within three feet of the side (North) property line, and total combined side yard of 11 feet at the above referenced location, subject to the following condition:

- 1) that gutters and downspouts be provided.

The motion carried unanimously.

**#5344**

**(Case #ZON2006-00051)**

**Ashland Station, L.L.C. (Mobile County School Board, Owner)**

**100 North Florida Street**

(West Side of North Florida Street, 120'± North of Old Shell Road)

**Use and Off-Site Parking Variances to allow off-site parking in an R-1, Single Family Residential district for 19 parking spaces to serve an adjacent retail center located in a B-2, Neighborhood Business district; the Zoning Ordinance requires that retail parking be located in a minimum B-2, Neighborhood Business District, and that off-street parking facilities be located on the building site with the use or structures for which the parking is provided.**

John Vallas was present representing the applicant. Mr. Vallas explained that a group of developers had acquired four old, dilapidated buildings which encompass about 20,000 square feet, and were doing a multi-million dollar renovation project to bring back retail shops into an area that was lacking this type of development. They were leasing the subject property from the School Board at Augusta Evans School. Mr. Vallas said the developers had been successful in securing leases for an antique shop, decorator shop, monogram shop, etc. This parking site would be used by Naman's, the anchor tenant, who would have a restaurant as well as a grocery store, and this additional parking would be needed for this project to be a reality.

Mr. Cummings asked if there was anyone else present to speak in favor of this project.

Ginny Russell, a resident of 209 Edington Drive, which was a neighbor to the development, said the neighbors were very pleased that this area was going to be revitalized and were in support of this application.

Mr. Cummings asked if there was anyone present to speak in opposition to this application. There was no response.

Ms. Collier said she felt it was delightful that they were making progress on this corner and felt this represented smart growth for Mobile. She hoped that they would capitalize on the neighborhoods that surround this site, and people would walk to their establishments and do their shopping and save on gasoline. In the interest of those pedestrians, Ms. Collier said she would like some assurance that the issue of sidewalks had been looked at, and that they would link with the existing sidewalks.

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Mr. Vallas said there were sidewalks currently in place. The three other buildings to the east of the Naman's project currently had sidewalks, and on the Naman's corner he understood that a sidewalk would be a requirement.

Ms. Collier said she was concerned with sidewalks for the entire project that would link with sidewalks that go into the neighborhoods in both directions. With Naman's being on the corner, she hoped there would be a nice curb.

Mr. Vallas said they planned to do some on-site improvements with landscaping and parking and resurfacing, etc.

Regarding landscaping, Ms. Pappas said that would not be an automatic requirement because they were neither decreasing nor increasing the square footage of the building by 50 percent or more.

Ms. Collier asked if the Board could request landscaping.

Mr. Vallas pointed out that the area that runs parallel with the right-of-way between Old Shell Road and their property was previously just an asphalt median so to speak. They had an agreement with the City of Mobile that if they would remove that asphalt from the intersection extending east several hundred feet, the City would then come in and landscape that area. The Parks and Recreation Department was working on that, but got delayed due to the storm and contracts between the City and FEMA. Mr. Vallas said they had been in contact with that department, and hopefully in the next few months before this project opened, that would happen. Also, the variance site would have landscaping requirements.

Mr. Cummings noted that the staff recommendation was that if the variance were approved, the provision of landscaping and trees, to be coordinated with Urban Forestry, would be required. Also, regarding the vacated piece of land mentioned by Mr. Vallas, Mr. Cummings noted that the proposed site plan showed that by vacating that service road it would give cars more room on site to maneuver in and out of parking spaces, and then exit onto the street; whereas currently, because it was basically just one big wide street, it was a little confusing.

Mr. Vallas stated that it was from a safety standpoint also, because it would provide circulation around the Namans building. This would prevent large trucks making deliveries from having to back out into the right-of-way. They would be able to exit onto Florida Street via an existing curb cut that was on the Naman's property.

Mr. Davitt asked if he understood that the new development would require 83 parking spaces.

Mr. Vallas said they were requesting approximately 20 parking spaces on this variance property.

Mr. Davitt said he understood that. The site plan showed 67 spaces, so they would have to have the additional 20 parking spaces.

Mr. Vallas said that was correct.

After discussion the Chair entertained a motion.

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Mr. Davitt moved to approve the variance as recommended by the staff, which would be with the provision of landscaping and trees.

Ms. Collier said sidewalks should also be a condition of approval.

Mr. Cummings said the sidewalks were going to be dictated by the City of Mobile under their building permit. They were not going to be dictated by this Board.

Ms. Pappas added that City Engineering would also make the decision on sidewalks. The Board could make it a condition, but if there were physical or drainage concerns associated with putting in a sidewalk, City Engineering would not approve it.

Mr. Cummings noted that if they did not want to put in a sidewalk, they would have to come before the Planning Commission to request a waiver. Either way, they would have to deal with the sidewalk issue.

Mr. Turner asked if there was an existing sidewalk on the opposite side of the street.

Ms. Collier said there was a sidewalk there, but it did not continue around the corner.

Mr. Turner said with the special needs school right there, there would probably not be a need for a sidewalk.

Mr. Vallas said there was an existing sidewalk, although as Ms. Collier said, it was in poor condition. He explained that the sidewalk runs parallel with this property. They have since vacated some right-of-way that the City of Mobile owned and had incorporated that into their plans. Mr. Vallas contended it was in a safer position because now that service road was being vacated and would serve more as a circulation for traffic. The sidewalk was in place, and they would tie into that sidewalk for the Naman's project.

Ms. Russell noted that there was no sidewalk on the Florida Street side of that building.

Ms. Collier asked Mr. Vallas if the Board could be assured that they would be working in that direction to make the sidewalk go around the corner.

Mr. Vallas said there was no sidewalk presently on Florida Street. He noted that there was a large tree on the School Board property at Florida Street, and he would rather save the tree than put a sidewalk on about 20 feet of School Board property. The tree would also provide screening and help the overall appearance of this project.

Ms. Collier said it would behoove the developer to make this user-friendly for those people who are pedestrians that would come to this establishment.

Mr. Vallas agreed.

Ms. Collier further stated that it was in the best interest of the public to have sidewalks.

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Mr. Vallas said he understood that was her opinion.

Mr. Cummings called for a second to the motion.

Mr. Coleman seconded the motion.

In further discussion Mr. Cummings again stated that the City Engineering Department would require this development to comply with the sidewalk requirements of the Ordinance.

Mr. Pappas noted that due to the fact that this was redevelopment and the only thing they were adding was the paved portion, she did not believe City Engineering would automatically require a sidewalk. While the Board could make it a condition, the conflict arises if it conflicts with City Engineering's ordinances in terms of adequate space between the pavement edge and the site, or if there were drainage inlets or something that would preclude installation of a sidewalk at this site. Ms. Pappas said the Board could not waive those requirements.

Mr. Lawler said that was correct. The Board, however, could require the sidewalks subject to any deviations that may be made by City Engineering. The final decision as to whether or not it was appropriate would be made by City Engineering.

Referring to the site plan, Mr. Cummings said it appeared to him that the sidewalk coming from the east would be forced to cross over a parking lot as a result of newly vacated street and incorporation of this new parking lot into this site, and then make its way along the street. Because a portion of the street was vacated, they would be re-aligning the entire direction of where the sidewalk was going and how it feeds into the site.

Mr. Vallas said the existing sidewalk was north of the service road that had been vacated. It runs east to where the service road ends, and then turns around and ties into where the former Woodruff Specialties was, and he thought the sidewalk continued on from there.

Ms. Russell was familiar with the neighborhood and said the sidewalk did not continue on to the next street, which was Grand Boulevard. It was just a grassy area, a path that you could walk on. She asked if they were going to move the sidewalk that was in front of the other businesses there closer to the street.

Mr. Vallas said they were leaving that sidewalk as it was. He said the problem was that if their sidewalk were relocated, the other buildings along there were not obligated to relocate their sidewalk to line up with theirs. That would not help pedestrian traffic.

Mr. Cummings agreed, and said it would not help the neighborhood either.

After discussion Mr. Cummings called for a vote on the motion to approve this request for Use and Off-Site Parking Variances to allow off-site parking in an R-1, Single Family Residential District for 19 parking spaces to serve an adjacent retail center located in a B-2, Neighborhood Business District at the above referenced location, subject to the following condition:

- 1) the provision of landscaping and trees, to be coordinated with Urban Forestry.

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The motion carried unanimously.

**#5345**

**(Case #ZON2006-00072)**

**Advantage Sign Company, LLC (Austal USA, Owner)**

**100 Dunlap Drive, Building B**

(West side of Dunlap Drive, 450'± West of U.S. Highway 90 at the entrance to Bankhead Tunnel)

**Sign Variance to allow two wall signs (465 square feet and 1,095 square feet) in excess of 350 square feet; wall signs are limited to 30 percent of the wall up to a maximum of 350 square feet.**

Mr. Davitt recused from discussion and voting in this matter.

Ray Floyd, with Advantage Sign Company, was present on behalf of Austal USA to request approval to allow two building signs that were larger than allowed.

Other than the fact that building was just quite large, Mr. Cummings asked what the hardship was.

Mr. Floyd said the size of the letters that they proposed to go on the building were proportionate to the size of the building, and the letters and logo take up about three percent of the building wall. On the river side it takes up about 2 ½ percent of the wall area. The City code is 30 percent of the wall area, or up to 350 square feet, and putting a 350 square foot sign on that wall was just tiny.

Mr. Cummings asked if they had a sign on their smaller building to the south.

Mr. Floyd said they did.

Mr. Cummings asked what would be the proportion of that sign to that smaller building.

Mr. Floyd said they tried to keep it in proportion to what was on the smaller building.

Mr. Cummings asked if there was anyone else to speak in favor or in opposition to this request. There was no response.

Mr. Guess asked how long the signs had been on the building, and why was it just coming before the Board.

Mr. Floyd said the signs had been on the buildings approximately two weeks. He said Austal had some big Navy visitors coming in and they wanted to get the building identified for them. They said if they got turned down, they would remove the signs and comply.

Mr. Guess said he also understood there were lights on these signs.

Mr. Floyd said there were two small lights that shine up on the signs. The letters themselves were not lighted.

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There being no further discussion, Mr. Cummings called for a motion.

A motion was made by Mr. Coleman and seconded by Mr. Guess to approve this request for a Sign Variance to allow two wall signs (465 square feet and 1,095 square feet) in excess of 350 square feet at the above referenced location.

The motion carried.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED: April 3, 2006**

Reid Cummings  
Chairman of the Board

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