

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF APRIL 3, 2006 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA AUDITORIUM**

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

**STAFF PRESENT**

Frank Palombo, Planner II  
Mae Sciple, Secretary II

**OTHERS PRESENT**

Joel Potter, Urban Forestry Intern  
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, seconded and so ordered to approve the minutes of the meeting of February 6, 2006 as submitted. The motion carried unanimously.

**HOLDOVERS**

**#5347**

**(Case #ZON2006-00314)**

**Saad & Vallas Realty Group, LLC (Dr. Lamar Snow, Owner)**

**153 North Florida Street**

(East side of North Florida Street, 240' ± North of Old Shell Road

**Use and Off-Site Parking Variances to allow 25 off-site (paved) parking spaces in a B-1, Buffer Business District for an adjacent (across the street) Naman's Midtown Market; a minimum of B-2, Neighborhood Business District is required and all parking is required to be on site.**

John Vallas, 3290 Dauphin Street, stated that he was present representing both the applicant and the property owner in this matter. He said that Dr. Lamar Snow was donating the existing house presently located on this property to the Mobile Medical Museum, and the house would be moved to the Spring Hill Medical District near the Mobile Infirmary. It would actually be moved into a historic district. Mr. Vallas noted that the house was to be removed for this purpose no matter what the outcome was of this variance request. The site is proposed for use as a parking lot for employees of Naman's Midtown Market, which is to be located across the

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street. He said their preliminary plan showed 25 parking spaces, but they did not want to be tied to that set number. They wanted as many spaces as they could get, while still meeting landscaping requirements, setbacks, etc.

Mr. Cummings asked Mr. Vallas if he knew the maximum number of parking spaces that could fit on this site and still be in compliance with landscaping requirements.

Mr. Vallas said he did not know at this time. He further stated that other successful developments in Mobile and even in Fairhope of the type proposed had off-site parking or public parking. Mr. Vallas said it was hard to create these mixed-use type Smart Growth developments without providing adequate parking.

Mr. Guess asked if he understood that the proposed parking would be dedicated to employees only.

Mr. Vallas said that was correct. The land actually adjoining the Naman's Market was to be for customer parking and circulation around the building.

Mr. Cummings asked if there was anyone in the audience that wished to speak in favor, or in opposition, to this application. There was no response.

Mr. Cummings noted that the staff had recommended approval subject to: (1) full compliance with landscaping and tree ordinances; (2) full compliance with municipal codes and ordinances; (3) provision of a buffer where the site adjoins residential property; and (4) the parking design and pedestrian crosswalk to be approved by the Traffic Engineering Department.

Mr. Vallas said they would comply with those requirements.

In deliberations session Mr. Guess suggested that in addition to the staff's recommendations, the applicant be required to have signage posted that the parking was for employees of Naman's only.

Mr. Coleman asked how they would control access to the parking lot.

Mr. Vallas said they had no intentions of putting any kind of security gate there, as he did not want their employees backing traffic up into Florida Street. He said they might be able to provide some control through screening and landscaping where only the employees of Naman's would know a parking lot was there.

After discussion a motion was made by Mr. Guess and seconded by Mr. Davitt to approve this request for Use and Off-Site Parking Variances to allow 25 off-site (paved) parking spaces in a B-1, Buffer Business District, for an adjacent (across the street) Naman's Midtown Market at the above referenced location subject to the following conditions:

1. full compliance with the landscaping and tree planting requirements of the Ordinance;
2. full compliance with all municipal codes and ordinances;
3. the provision of a buffer where the site adjoins residential property;

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4. the parking design and pedestrian crosswalk to be approved by the Traffic Engineering Department; and
5. the placement of a sign on the site stating that the parking is reserved for Naman's employees only.

In further discussion Mr. Davitt asked if it would be the owner's responsibility to enforce the employee-only parking.

Mr. Lawler said enforcement would be up to the owner.

There being no further discussion, Mr. Cummings called for the vote. The motion carried unanimously.

**PUBLIC HEARINGS:**

**#5350**

**(Case #ZON2006-00535)**

**MLK Avenue Redevelopment Corporation**

(Northwest corner of North Lafayette Street and Chatague Avenue)

**Side Yard Setback, Side (Street) Yard Setback and Combined Side Yard Setback Variances to allow the construction of a residential structure within 6.08-feet of a side property line, within 10-feet of the side (street) property line and to allow a total combined side yard of 16.08-feet; a 7.5 foot setback is required from a side property line, a 15-foot side (street) yard and a total combined side yard of 22.5-feet is required for residential structures on a corner lot 52.5-feet wide in a R-1, Single-Family Residential District.**

Mr. Tim Spafford was present representing the owner, MLK Avenue Redevelopment Corporation, and said they were requesting a street side yard setback variance. They were not asking for a side yard and a street side yard setback variance as indicated in the case description. Mr. Spafford said when they submitted their site plan there was a typo on it, and once they realized it they updated it. They were asking for a 10-foot setback along Lafayette Street. The other side yard was more than 7 ½ feet. He explained that there were two other lots adjoining this site, and they turned those two lots facing Lafayette Street to where they faced Chatague Avenue also. Mr. Spafford said this lot would still be in keeping with the character of the neighborhood, and it would allow them to use it for residential development. He noted that the MLK Redevelopment Corporation had developed over 100 residences in this area. They purchase property from the Housing Board who has foreclosed on property for non-payment of taxes and such and try to redevelop the neighborhood. They planned to develop this lot and the two adjoining lots with single-family residences, which would be an improvement to the neighborhood.

Before proceeding further, Mr. Cummings asked Mr. Palombo if the staff recommendation would have changed had this additional change been in hand prior to the staff report being written.

Mr. Palombo said it would not have changed their recommendation.

Mr. Cummings asked if there was anyone in the audience who wished to speak in favor, or in opposition, to this application. There was no response.

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Mr. Cummings noted that the staff recommendation for approval was subject to the condition of gutters and downspouts.

Mr. Spafford said they could meet those conditions.

Asked what the size of the structure was to be, Mr. Cummings noted that the staff report indicated it would be approximately 1612 square feet.

Mr. Spafford said he did not know the size of the original structure. The proposed structure, however, would be a three-bedroom, two-bath, brick residence, and would meet the current building code.

After discussion a motion was made by Mr. Davitt and seconded by Mrs. Collier to approve this revised request for Side (Street) Yard Setback and Combined Side Yard Setback Variances to allow the construction of a residential structure within 10 feet of the side (street) property line to allow a total combined side yard of 21.3 feet at the above referenced location.

The motion carried unanimously.

**#5351**

**(Case #ZON2006-00539)**

**Barbara Shepherd Malkove**

**11 South Hathaway Road**

(South side of Hathaway Road, 350'± West of North McGregor Avenue)

**Side Yard Setback Variance to allow the construction of a 24' x 36' garage 3 feet from the side (West) property line; a minimum side yard setback of 8 feet is required for a lot that is 60' wide or wider at the minimum front building setback line in an R-1, Single-Family Residential District.**

Barbara Malcove of 4325 Marquette Drive, applicant, requested this variance which would allow her to construct a garage 3 feet from the side property line. Mrs. Malcove said this setback would be in character with other garages in the area, which were built on the line or two or three feet from the line. The garage next door was built two feet from the line. The houses in this area were built in the 1940's.

Mr. Cummings asked if there was anyone in the audience who wished to speak in favor or in opposition to this application. There was no response.

Mr. Cummings asked if anyone on the Board had any questions.

Mrs. Collier stated that she visited the site and noticed that the driveway was just aggregate.

Mrs. Malcove said that when she bought the property it did not have a driveway at all. Since there was no pavement that would have to be removed, Mrs. Collier asked why the applicant did not just go in alignment with the house and move away from the property line.

Mrs. Malcove said she bought the house for her parents to relocate and they wanted to have plenty of yard room. She was trying to move it over so they would have more yard rather than a back yard full of garage. They proposed a two-car garage.

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Mrs. Collier asked if Mrs. Malcove planned to put a paved driveway there.

Mrs. Malcove said she planned to leave it as it was. After her parents moved in, it would be up to them whether they paved it or not.

Mr. Guess noted that the staff recommended a setback of 5 feet rather than 3 feet as requested. He wondered whether that might be a possibility, as it would be consistent with the neighborhood.

Mr. Cummings said the Board could require whatever setback they wanted, but looking at the overall area map for this several block area, there were quite a few parcels with garages right on the line, and in some cases obviously over the line. The question was trying to keep it in character with the neighborhood.

Mr. Coleman asked if the existing garages that were over or on the line were there prior to the Ordinance being adopted.

Mr. Palombo said that was correct. They were there prior to the adoption of the Zoning Ordinance. Mr. Palombo also noted that if the Board were to approve the 3-foot variance as applied for, the applicant would still have to meet building code requirements including the construction of a fire wall on that side that abuts the residential with the adjacent property. The applicant would also have to check the building codes to see if any openings were allowed on that side.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Turner approve a Side Yard Setback Variance to allow the construction of a 24' x 36' garage 5 feet from the side (West) property line at the above referenced location.

The motion carried unanimously.

**OTHER BUSINESS:**

There being no other business, the meeting was adjourned.

**APPROVED:** June 5, 2006

Reid Cummings  
Chairman of the Board

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