

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF JUNE 4, 2012 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

William Guess, Chairman
Vernon Coleman, Vice-Chairman
Sanford Davis
Adam Metcalfe
Jeremy Milling
*supernumerary member

MEMBERS ABSENT

Russell Reilly*
J. Tyler Turner*

STAFF PRESENT

Richard Olsen, Deputy Director
Frank Palombo, Planner II
Caldwell Whistler, Planner I
Sondi Galanti, Secretary I

OTHERS PRESENT

John Lawler, City Attorney
George Davis, City Engineering
Butch Ladner, Traffic Engineering
Gerard McCants, Urban Forestry
DC Billy Roach, Fire and Rescue

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

ROLL CALL

✓	William Guess, Chairman
✓	Vernon Coleman, Vice-Chairman
✓	Sanford Davis
✓	Adam Metcalfe
✓	Jeremy B. Milling
✘	Russell Reilly
✘	J. Tyler Turner

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 to vote in the affirmative to approve any variance and then called the meeting to order.

HOLDOVERS: NONE

EXTENSIONS:

#5718

(Case #ZON2011-02557)

Joe Mason

1412 & 1416 Wolf Ridge Road

(East side of Wolf Ridge Road, 200'± North of Moffett Road).

Front Landscaping Variance to allow 2,435 square feet of front landscaping areas on a 94,510 square foot lot; the Zoning Ordinance requires 6,804 square feet of front landscaping area for a lot 94,510 square feet in B-3, Community Business District.

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

Mr. Frank Dagley, 717 Executive Park Drive, Mobile, AL, spoke on behalf of the applicant and made the following points in support of the application:

- They are asking for an extension of a variance that was approved but has since expired;
- Staff has recommended a six-month extension, and he is in agreement.

A motion was made by Mr. Coleman, with second by Mr. Metcalfe, to **approve the above referenced request with a Six-month extension granted through December 4, 2012.**

The motion carried unanimously.

PUBLIC HEARINGS:

#5749/5501

(Case #ZON2012-01063)

Michael Schambeau

3806 Moffett Road

(North side of Moffett Road, 240'± West of Stimpson Lane)

Use, Access, and Tree Planting Variances to allow an automotive repair shop in a B-2, Neighborhood Business District, with no direct vehicular public street access to the parking area, and reduced tree plantings; the Zoning Ordinance requires a B-3, Community Business District for an automotive repair shop, direct vehicular access to a public street from the parking area, eight frontage trees, thirty perimeter trees, and two parking trees.

The Chair announced the matter, advising it had been recommended for approval of the use and access variance and denial of the tree-planting variance. He advised the applicant should address the Board regarding the subject at that time.

Mike Schambeau, owner of Mike's Automotive, 3806 Moffett Road, Mobile, AL, spoke on his own behalf and made the following points in support of the application:

- The City has said that he is operating in a B-2 zone, and that he should be in a B-3 zone, and now there are parking, access, and tree-planting issues;

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- He thought he had gotten approval for a hardship variance in 2008, and now this issue has come up again;
- He was told by zoning he had to go to ALDOT and put in a new separate drive, and ALDOT denied it;
- He has a PUD for shared access/parking with his neighbor;
- He operated his business for twenty years at 3916 Moffett Road which was also zoned B-2;
- He has been at 3806 Moffett Road for four or five years now; he doesn't understand why there is a problem now as he was granted a business license.

Mr. Milling asked if Mr. Schambeau applied for the variance himself.

Mr. Schambeau stated that was correct.

Mr. Milling asked if he complied with the conditions of the 2008 approval as it probably had conditional approval.

Mr. Palombo stated that what triggered this application is that although he received his business license through Revenue in 2008, he didn't get the proper zoning clearance through Urban Development so he doesn't have the right to operate a B-3 use in a B-2 zone. The 2008 approval was conditioned on a curb-cut, and ALDOT wouldn't approve the curb-cut because it was too close to the neighbor's property. The variance couldn't be completed because the conditions couldn't be met. Mr. Schambeau and his attorney were told that another variance would be required.

After further discussion regarding non-compliance of the tree-planting on the previous variance condition and hearing no opposition, the Chair opened the floor for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Sanford Davis, to deny the Tree Planting Variance and approve the Use and Access Variances for the above referenced request, subject to the following conditions:

- 1) compliance with the Tree Planting requirements and that the placement of the frontage trees be approved by Traffic Engineering and Urban Forestry; and**
- 2) compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5750

(Case #ZON2012-01184)

Big Dawg Services

5590 Todd Acres Drive

(South side of Todd Acres Drive, 1,466' ± West of Commerce Boulevard West)

Use, Surfacing, and Tree Planting Variances to allow a contractor's storage yard in a B-5 Office-Distribution District, with aggregate surfacing, and reduced frontage tree requirements; the Zoning Ordinance requires an I-1, Light Industry District for a contractor's storage yard, all surfacing to be asphalt or concrete, and 14 frontage trees to be planted.

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

The following people spoke on behalf of the applicant:

1. Don Williams, Williams Engineering, 6300 Piccadilly Square Drive, Mobile, AL, and,
2. Derrick Peterson, 8081 Oak Hill Drive, Semmes, AL.

They made the following points in favor of the matter:

- Big Dawg Services is a demolition and recycling operation for commercial and residential sites;
- They take materials from other places, bring to their yard, separate the materials by dozer and by hand, and take them to the appropriate places for recycling;
- They have been in this location prior to annexation in 2009;
- They have a building on site, a gravel storage yard, no trees – all this was developed prior to annexation, and they have outgrown this site;
- There are other contractors in the area with similar gravel storage yards;
- They want to expand their services across the street and have a gravel storage yard on the site.
- They will put whatever trees are required on the new site;
- They don't want to have to put asphalt on the new site as it would be ripped up within a year due to the use;
- The applicant did purchase the property 2011 and failed to permit the new operation – he put in a roadway, didn't get zoning clearance, or do stormwater retention;
- The applicant is trying to resolve all these issues now;
- There is no household garbage brought onsite;
- Other than the trailer park nearby, there is no one else living in the area;
- They will agree with all business licensing, stormwater retention, engineering, and traffic requirements.

With the applicant's agreement, a motion was made by Mr. Milling, seconded by Mr. Coleman, **to holdover the above referenced request to allow the applicant to submit a site plan illustrating the location, area and type of material being processed and the circulation of vehicles upon delivery of the material.**

The motion carried unanimously.

#5751

(Case #ZON2012-01258)

Ali Chammout

1850 Airport Boulevard

(Southwest corner of Airport Boulevard and Old Government Street)

Sign Variance to allow a total of five wall signs for a tenant with two street frontages on a group business site in a B-2, Neighborhood Business District; the Zoning Ordinance allows a tenant with two street frontages on a group business site to have two wall signs and a freestanding tenant panel in a B-2, Neighborhood Business District.

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

Ali Chammout, 1850 Airport Boulevard, Mobile, AL, spoke on his own behalf and made the following points in favor of the application:

- They are asking for one extra sign on the Old Government Street side of the site to help direct customers to both entrances;
- The building is triangular in shape, and they have more than one entrance;
- Additional signage will look nicer;
- They used the awnings that were already there from the old Bilotti's building and put Ollie's name on it; and
- There is an awning on the Old Government Street side, and he just wants to put Ollie's name on it.

After discussion and hearing no opposition, the Chair opened the floor for a motion. A motion was made by Mr. Milling, with second by Mr. Coleman, **to approve allowing four non-illuminated canopy signs (two along Airport Boulevard, one along Old Government Street and one at the corner of Airport Boulevard and Old Government Street).**

The motion carried unanimously.

#5752

(Case #ZON2012-01269)

Wrico Signs, Inc.

7770 Airport Boulevard

(Northeast corner of Airport Boulevard and Schillinger Road South)

Sign Variance to allow a total of three wall signs and one freestanding tenant panel for a tenant on a group business site in a B-3, Community Business District; the Zoning Ordinance allows a tenant on a group business site one wall sign and one freestanding tenant panel in a B-3, Community Business District.

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

Wade Wright, Wrico Signs, 3345 Halls Mill Road, Mobile, AL, spoke on behalf of the applicant and made the following points in support of the application:

- Verizon Wireless was at this location at the corner of Airport and Schillinger prior to annexation and already had 3 wall signs and a freestanding tenant panel; and
- On the north elevation (back wall) where they had a sign, some palm trees have been planted or grown up on the adjoining property, so they would like to remove the signs from that elevation and move them to the west elevation (Schillinger Road side).

After discussion and hearing no opposition, the Chair opened the floor for a motion. A motion was made by Mr. Coleman, with second by Mr. Guess, to deny the above referenced request.

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The motion carried unanimously.

#5753/5519/4575

(Case #ZON2012-01271)

Nicholas Stricklin

2605 Springhill Avenue

(Southwest corner of Springhill Avenue and Item Avenue)

Use Variance to allow a catering shop in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for a catering shop.

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

The following people spoke on behalf of the applicant:

- 1) Nicholas Stricklin, 2605 Springhill Avenue, Mobile, AL, spoke on his own behalf, and
- 2) William Rice, Business Manager, St. Catherine's Catholic Church, 2605 Springhill Avenue, Mobile, AL.

They made the following points in support of the application:

- Mr. Stricklin's request is to be allowed to start a catering business out of the closed Catholic school building;
- There have been catering businesses run out of there since the school closed in 1984;
- The last variance that was accepted was in 2009, but the applicant didn't open the business so the variance approval expired;
- The intent is to cook food in the kitchen and deliver it to events/parties-there will be no customers eating/picking up at the location;
- The site has already been cleared by the health department;
- The dumpster on site isn't cleared for food waste, so Mr. Stricklin has Waste Management roll-out cans that will be picked up twice weekly that are separate from the church's cans;
- When Mr. Stricklin applied for the business license, there was a zoning issue because there hasn't been anyone operating out of the closed cafeteria in about 5 years;
- There is sufficient parking for both Mr. Stricklin and the church;
- The church will notify Mr. Stricklin in advance if there is a big wedding or funeral scheduled;
- The church has services every day, three services on Sunday, and Bingo on Thursday, but it will not interfere with Mr. Stricklin's operation;
- They have had the vent hood replaced so it is up-to-date.

After discussion and hearing no opposition, the Chair opened the floor for a motion.

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

1) compliance with all other municipal codes and ordinances.

The motion carried unanimously.

#5754

(Case #ZON2012-01273)

Ray Jones

601 South Craft Highway

(Northwest corner of South Craft Highway and Osage Street)

Use Variance to allow the operation of a convenience store, carwash, and food service trailer in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District.

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

The following people spoke in favor of the application:

- 1) Forrest Wilson, Jr., 4167 Skywood Lane, Mobile, AL, present owner of property located at 601 South Craft Highway; and,
- 2) Ray Jones, 601 South Craft Highway, Mobile, AL.

They made the following points in support of the application:

- This property was in use as a business in the mid-1930s with Mr. Wilson's family and has remained in use as a business;
- When the Toulminville area was taken into the City of Mobile, the area was classed as residential;
- Mr. Wilson's understanding is that the use was grandfathered in since it was being used as a business prior to being taken into the City;
- He is requesting the Board's approval of the variance since it has been used as a business for many years;
- This is a change in use as it was a monument company previously;
- He sold the monument business 10 years ago but not the property;
- There have been several car washes operating there over the years; but, unknown to him, none of them were licensed;
- The cars will be hand-washed and hand-dried;
- There is a spot on the end of the site where the cars will be pulled in to be washed;
- Customers will drive up to get their plate from the food service trailer and leave;
- There is a fire hydrant across the street; and
- Mr. Jones has been working to clean up the property and wants to benefit the community by doing business there.

After discussion and hearing no opposition, the Chair opened the floor for a motion.

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A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to **holdover the above referenced request for 30 days to allow the applicant to submit revised site plans illustrating parking for the food service trailer.**

The motion carried unanimously.

#5755

(Case #ZON2012-01274)

Sandys Miller Stimpson

14 Japonica Avenue

(West side of Japonica Avenue, 374'± South of Dauphin Street)

Side Yard Setback and Combined Side Yard Variances to allow an addition to an existing dwelling within 10'-8" of a side property line with combined side yards of 18'-8" on a 97.5' wide lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 12' side yard setback with combined side yards of 20' on a 97.5' wide lot in an R-1, Single-Family Residential District.

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

Sands Stimpson, 14 Japonica Avenue, Mobile, AL, spoke on his own behalf and made the following points in support of the matter:

- He is asking for setback variance to be able to add on to and renovate his personal home;
- His family is growing, he enjoys the Midtown area, and he would like to be able to stay in his current home;
- On neighboring streets in the last 30 years, there have been three setback variances allowed;
- He's looking to add on about 600 square feet;
- He is taking the house from a two bedroom, two bath to a three bedroom, 2½ bath;
- He is also bringing the laundry room inside from the garage.

After discussion and hearing no opposition, the Chair opened the floor for a motion.

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

- 1) placement of gutters and downspouts along the addition; and**
- 2) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5756

(Case #ZON2012-01275)

Charles Calagaz

63 Midtown Park East

(East side of Midtown Park East, 575'± South of Dauphin Street Service Road)

Parking and Landscaping/Tree Planting Variances to allow 23 parking spaces to be provided for a 10,100 square foot dance studio with offices and no landscaping area or tree plantings in a B-3, Community Business District; the Zoning Ordinance requires that 34 parking spaces be provided for a 10,100 square foot dance studio with offices and 12% total site landscaping with 60% of the total as frontage landscaping, three frontage trees, seventeen perimeter trees, and two parking trees in a B-3, Community Business District.

The Chair announced the matter, advising it had been recommended for approval of the parking ratio and frontage landscaping variance, but the request to waive total site landscaping area and tree plantings is recommended for denial. He advised the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the application:

- 1) Frank Dagley, Frank Dagley and Associates, 717 Executive Park Drive, Mobile, AL, spoke on behalf of the applicant; and
- 2) Charles Calagaz, 63 Midtown Park East, Mobile, AL, spoke on his own behalf.

They made the following points in support of the matter:

- Mr. Dagley's site plan has a significant error on it that was realized when he met Mr. Calagaz on the site;
- The revised site plan shows that the building sits 5' off the north property line rather than on the property line;
- The revised plan shows everything shifted 5' to the south;
- The asphalt is basically on the property line to the south, so there is no green space along the south property line for planting trees;
- Regarding recommendation #1 for the provision of a frontage landscaping area within the property adjacent to the public sidewalk – there is 27' between the rear of the parking area and the sidewalk, so they would have to dig up 3' of asphalt to plant frontage trees on their property which isn't enough, in his opinion, to plant live oak trees. The owner has said that he would agree to plant three trees on the right-of-way, if allowed;
- The potential buyer for this property is the owner of a dance studio where children will be dropped off so they would like to have one way in and one way out. They have talked to Traffic Engineering, and Traffic agrees as long as proper signage is put up;
- The full tree planting isn't possible as previously stated, but they do have an area in the back right where they could possibly plant a few trees – the grass in the foreground is where it has grown over the asphalt;
- They are in agreement with conditions #5 and #6 if they can get the variance approved;
- Mr. Calagaz had a successful retail operation in the building for 25 years with a lot of traffic in and out and had no parking or traffic problems;
- When Mr. Calagaz retired, he took ownership of the building, and it has been vacant for the last five years;
- In order to rent the property, he has had to negotiate lower rent because he's had a difficult time leasing it;

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- There were five air conditioners in the five feet of vacant area between the buildings. He lost the air conditioner units to copper thieves, so he would really like to get the building rented to a viable business;
- The two driveways have never caused any problem because it's not a high traffic area;
- The potential tenant will occupy the entire building.

After discussion and hearing no opposition, the Chair opened the floor for a motion.

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

- 1) **that the South driveway be marked as the entrance and the North driveway as the exit, in compliance with Traffic Engineering requirements;**
- 2) **coordinate placement of the required number of frontage trees in the right-of-way in front of the site with Urban Forestry;**
- 3) **that the grass within the right-of-way in front of the site be replaced and maintained;**
- 4) **that the overgrown grass within the parking lot, along the front property line, be removed and the parking lot be maintained;**
- 5) **revision of the site plan to illustrate a compliant size for the handicap parking space/access aisle in front of the building; and**
- 6) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5757

(Case #ZON2012-01281)

Rosalyn Holderfield

7460 Airport Boulevard

(North side of Airport Boulevard, 476'± East of Alverson Road)

Sign Variances to allow a total of three wall signs and a single freestanding sign, with wall signs totaling 708 square feet, the freestanding sign totaling 337.5 square feet per face and 50' high for a single business site in a B-3, Community Business District; the Zoning Ordinance allows a total of three signs (3 wall signs, or 2 wall signs and one freestanding sign), the maximum square footage for wall signs to be 350 square feet, the maximum square footage for freestanding signs to be 1 square foot per linear foot of street frontage (189') per face, the maximum height of signs to be 35' high for a single business site in a B-3, Community Business District.

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

Rosalyn Holderfield, 1771 Industrial Road, Dothan, AL, spoke on behalf of I. D. Associates and made the following points in support of the application:

- Frank Palombo provided everyone with an updated version of their sign packet so that they might see the proposed signs superimposed in the environment;

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- She realizes that their request exceeds what the ordinance allows, but they are within a 7% ratio of the building front façade calculating the full extreme of the letters while taking out some of the dead space on the sign reduces the ratio to 5.5%;
- The building that Academy is proposing is going to be setback about 600 feet from Airport Boulevard;
- There will be outparcels in front of Academy, but they don't know who will be there yet;
- There are trees on the sides of the parking area, so the store isn't really visible until traffic is almost parallel to the site;
- They are not considered a multi-use, so they are before the Planning Commission for the freestanding sign height;
- They would appreciate maintaining their standard on the front façade as it is consistent with their other location about five miles further down Airport Boulevard;
- They are at 216 square feet on the freestanding sign, and the maximum they are allowed is 189 square feet based on their street frontage.

After discussion and hearing no opposition, the Chair opened the floor for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to **approve the wall signage and deny the variance for the with a reminder to the applicant that the free-standing sign MUST be on the property in question, not on an adjacent outparcel.**

The motion carried unanimously.

#5758

(Case #ZON2012-01342)

Frances and Heinz Hoffmann

21 Hillwood Road

(East side of Hillwood Road, 600'± South of Old Shell Road)

Administrative Appeal to have the Certificate of Occupancy issued for the construction of a new dwelling to be rescinded.

The Chair announced the matter, advising it had been recommended that the Board determine the appeal is not relative to Chapter 64 of the Municipal Code, or Title 11, Chapter 52, Article 4, of the Code of Alabama, as amended; and as such, is outside the jurisdiction of the Board. He advised the applicant should address the Board regarding the subject at that time.

Mr. Eddie Hawkins, 306 St. Francis Street, Mobile, AL, spoke on behalf of the applicant and appealed to the Board to rescind the certificate of occupancy issued for the reasons stated in the appeal.

The Chair stated that this is an unusual request, and he questioned whether the Board had the authority to review an application of this nature.

Mr. Lawler stated that if a building placed on a site violated a zoning regulation, the Board would have the authority to grant relief. In this case, it concerns the subdivision of the property which is generally dealt with through the courts, and it is being dealt with through the court. The appellant hasn't shown reason why the appeal should be granted because it doesn't show that there was any violation of the zoning regulation. The Board of Adjustment only deals with

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zoning regulations and the municipal code, so he suggested that they consider it as not having been proved and deny it.


A motion was made by Mr. Coleman, with second by Mr. Guess, to deny the above referenced request because the Board determined that the applicant failed to establish that the appeal was relative to Chapter 64 of the Municipal Code, or Title 11, Chapter 52, Article 4, of the Code of Alabama, as amended; and as such, the appeal was denied because it is outside the jurisdiction of the Board.

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED:



Chairman of the Board

/lw