

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

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

J. Tyler Turner\*  
Russell Reilly\*

**STAFF PRESENT**

Frank Palombo, Planner II  
Bert Hoffman, Planner II  
Joanie Stiff-Love, Secretary II  
Tchernavia Yow, Secretary I

**OTHERS PRESENT**

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

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

**CALL TO ORDER/ROLL CALL**

Chairman Guess called the meeting to order at 2:02 p.m. He advised all attending of the policies and procedures pertaining to the Board of Zoning Adjustment. He then called roll, with the following people answering at that time:

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

He noted that the number of members present constituted a quorum. He said it would require four members to vote in the affirmative to approve any matter and proceeded to call for the approval of minutes.

**APPROVAL OF MINUTES:**

A motion was made by Mr. Guess, with second by Mr. Coleman, to approve the minutes from the following Board of Zoning Adjustment meetings:

- August 1, 2011
- September 12, 2011

The motion carried unanimously.

**EXTENSIONS:**

**#5677**

**(Case #ZON2011-00971)**

**Horace Jones**

3416 Beltline Park Drive North

(Northeast corner of Beltline Park Drive North and East I-65 Service Road North)

**Parking Surface Variance to allow a gravel parking area for heavy equipment sales and display in an I-1, Light Industry District; the Zoning Ordinance requires heavy equipment sales and display 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 it had been recommended for denial. The applicant did not appear at the hearing to address the Board regarding the subject.

The Chair asked if there were those present in favor or 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 above referenced request, subject to the following conditions:

The motion 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.**

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. Jonathan Stebbins, President, Wooden Boat Ministries a/k/a Mobile Bay Institute, 2175 O'Rourke Drive, Mobile, AL, spoke on his own behalf and made the following points in favor of the application:

- He is asking for a six month extension as their engineers and architects are just now completing their plans.

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The Chair asked if there were any questions from the Board. Hearing none, he asked if there were those present in favor or 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. Sanford Davis, with second by Mr. Metcalfe, to **approve the above referenced request; however, the applicant should be advised that future extensions are unlikely.**

The motion carried unanimously.

**HOLDOVERS:**

**#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.**

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.

Don Williams, Williams Engineering, 6300 Piccadilly Square Drive, Mobile, AL spoke on behalf of the applicant and made the following points in support of the application:

- The Board had requested more information regarding the types of materials that would be brought to the site;
- He wrote a letter regarding the types of materials brought to the site, submitted a revised site plan, about five more pictures of the site, and ten of the neighboring sites;
- To the right of the site in question on Todd Acres Drive is an industrial plant with a metal building and a gravel parking lot, next to that is a trucking company that has a metal building and a gravel parking lot, and directly across the street is a salvage yard where salvage items are left out and screened off by fencing. On the other side of Todd Acres Drive is another metal building with a gravel storage yard, another next to that, and on the corner is the current location of Big Dawg Services where they also have a metal building, gravel yard, and materials out front. All of these properties are screened by chain link fences on the fronts and on the side. Big Dawg has a "tennis-court" screen that is about 6' high that is opaque so it is not seen from the road;
- They will have a sorting yard on the site in question;
- Big Dawg is a salvage contractor – they bid on work to demolish and remove buildings;
- They load the demolished buildings into their own roll-off dumpsters and then truck the dumpsters to their site;

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- The material is concrete, wood, steel, gypsum wallboard, insulation, wiring, and other materials;
- Plumbing fixtures and other salvageable materials are removed prior to demolition;
- The owners of Big Dawg tests for hazardous materials like asbestos, PVCs, etc., prior to the material being removed from the demolition site;
- Once the material is on Big Dawg's property, the employees sort it by hand, welding torches, backhoes, and bulldozers reduce the recycled piles on the gravel work yard – there is no freestanding machine/crusher on site;
- The construction equipment operates on a demand basis;
- Their hours are 7:00 a.m. to 7:00 p.m., Monday through Friday;
- The site is surrounded by B-5 businesses;
- The recyclable materials are usually trucked off the same day, and the non-recyclable materials are disposed of in a landfill under the state permits that Big Dawg has for disposal;
- All truck activity will be confined to the single existing gravel driveway;
- There are essentially no trees on the site, so they are offering to plant 15 frontage trees behind the "tennis-court" screen;
- There is a baseball field at the rear of the site for the owner's son and employees to play/practice for recreation– it is not open to the public;
- They would like to rescind the offer to plant other trees on the other three sides as they serve no purpose;
- They will address the stormwater issues with the Engineering Department as necessary.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there were those present in favor or opposition to the matter and opened the floor to their comments.

Mr. Palombo asked if there was ever a land disturbance permit pulled for the removal of the trees as the area was annexed in 2009.

Mr. Williams stated that he did not think there was, whether or not it was under the city or the county at the time. The ground is so flat now that everything percolates into the ground so they feel like there is no harm done, but they do need to get the proper permits. He stated that they would get with Engineering to resolve all issues.

Mr. George Davis stated that his department would get with the engineer to make sure that their plans met the ordinance as far as stormwater detention. He did want to add that using the gravel surface is something that is not allowed by right, and the applicant is allowed to submit a request to the Engineering Department for review/approval of an alternate surface. He thought that the Board may want to make that a condition of their decision.

Mr. Williams stated that is their intent as they feel like they really need the gravel surface because an asphalt surface wouldn't stand a chance with all the scraping, moving, etc. There will be no employee parking at this site; employees will park across the street at the other Big Dawg site.

Mr. Hoffman stated that the City started zoning enforcement in this area in 2009. The aerial photograph shown is from 2010, so there were trees on the property when it was in the City. It was cleared without any permits at all. The baseball use on the map in the folder shows that the

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diamond actually extends beyond the rear property line onto an adjacent property. Only one copy of that was submitted for review, so no other department received that information.

Mr. Guess asked if on the revised site plan it calls for an apron or curb to retain the gravel on the site and if there is a preliminary entrance.

Mr. Williams stated that they have a gravel driveway all the way up to the road, and they would like to keep it that way.

Mr. Ladner stated that he could see a problem with gravel on the right-of-way.

Hearing no further discussion or opposition, the Chair opened the matter 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) Obtaining of a Land Disturbance and other necessary permits;**
- 2) Provision of 15 frontage trees;**
- 3) Provision of a concrete apron and curb-cut per Traffic Engineering standards;**
- 4) Compliance with Engineering requirements; and**
- 5) Full compliance with all other municipal codes and ordinances.**

The motion carried with Mr. Guess voting to deny the request.

**#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.

Ray Jones, 601 South Craft Highway, Mobile, AL, spoke in favor of the matter and made the following points in support of the matter:

- He used Gulf States Engineering to answer all the questions that the Board and staff had from the last hearing;
- The plans were revised to not have a hand carwash on the site;
- He will still have the convenience store and the food service trailer on the site, and the plans were revised to have better access and parking.

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The Chair asked if there were any questions from the Board. Hearing none, he asked if there were those present in favor or 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. Sanford Davis, to approve the above referenced request, subject to the following conditions:

- 1) Coordination with Traffic Engineering requirements;**
- 2) Full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

**PUBLIC HEARINGS:**

**#5759**

**(Case #ZON2012-01364)**

**Randall Lanier Wood**

**4812 Pine Court**

(North side of Pine Court, 120'± East of Ridgelawn Drive West)

**Side Yard Setback Variance to allow the construction of an carport within 2.6 feet of the side property line in a R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard setback of 8 feet (with the sum of both side yards totaling 20 feet) 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.

George Cancel, Titan Homes, 1965 Autumn Lake Drive West, Mobile, AL, spoke on behalf of the applicant as he is clergy and had to be out of town for the day.

The Chair stated the nature of the application and asked about it running along a drainage easement.

Mr. Cancel stated that he wasn't certain about a drainage easement, but that Alabama Power had an easement there. He stated that Mr. Wood contacted Alabama Power for an allowance on that easement. Mr. Wood submitted that paperwork and Mr. Cancel hasn't seen it. He stated that Mr. Wood wanted a carport, not a garage, and that it is a bit of a hardship case. Mr. Wood's wife is a cancer survivor, and they are trying to stay out of the sun. He further stated that Mr. Wood had spoken to his neighbors about what he wants to do, and they are not opposed.

The Chair stated that his understanding is that the applicant has to submit a declaration of vacation among the property owners and letters of consent from the utility companies and that has not been completed yet.

Mr. Hoffman stated that is his understanding as well. It has been reviewed, but the declaration has not yet been provided.

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The Chair stated that there were two ways they could approach this case: 1) they could hold it over for that process to be completed, or 2) have that as a pending action for their approval. The fact that Mr. Cancel is there to represent Mr. Wood in his absence caused him to question whether they should hold it over to give the applicant time to accomplish this process and asked if Mr. Cancel thought that the applicant would be adverse to holding over.

Mr. Cancel didn't think that it would be a problem for him to get the declaration. He felt like an approval with that contingency would give them the opportunity to move forward with revised drawings.

Mr. Hoffman stated that it shows in the report that it takes four weeks after the declaration is provided, so he wouldn't be able to come back by the August meeting.

The Chair verified that they needed to allow at least 60 days.

Mr. Palombo said that it really depends on the vacation as to how the Board would be inclined to vote. He stated that it is 2.6' from the property line. Even in a historic district, they typically go with 5'.

Mr. Metcalfe stated that if they re-oriented the driveway in line with the existing structure that they may stay out of that area except maybe with a little corner.

Mr. Cancel stated that they did look at that as an alternative, but they would have to remove/replace the driveway. The air conditioner and power feed for the home would also have to be relocated as well.

Mr. Metcalfe asked what would happen if the size of the carport was reduced a little. He thought that maybe, historically, they had approved some encroachments into the setback but not to this degree.

Mr. Guess stated that they had approved some in historical areas, but they were in line with the house.

Mr. Cancel stated that they may consider it, but that they were wanting to be able to get two cars under the carport. They wouldn't be able to do that if it were reduced, and they would have to park two cars in line where one would have to move before the other could come in.

Mr. Palombo stated that the concrete wasn't the issue; the issue was the overhead carport or garage not being within the 8' setback. He said that if a single car carport was built up to the garage and they put cement or asphalt for the remaining area that would be okay as it could easily be removed for electrical or drainage work in the easement.

Mr. Cancel asked if it would tend to be approved if it was angled in the back corner as Mr. Metcalfe had suggested provided the applicant wanted to go to the expense of moving the air conditioner and the electrical to relocate the driveway.

Mr. George Davis stated that the existing easement was in the process of being vacated, and Engineering has recommended that it be granted because there are no existing drainage pipes in

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there. All drainage for the streets are in, and it isn't necessary for a drainage easement. He thought that the utility companies had signed off and that the easement will probably be vacated so it won't be an issue.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in favor or opposition to the matter and opened the floor to their comments. Hearing none, he stated that it appeared from the staff's comments that the easement process is well under way, and he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Sanford Davis, to **holdover the above referenced request, until the August, 2012 meeting to allow the applicant to revise the site plan, with revisions due to staff by July 16, 2012.**

The motion carried unanimously.

**#5760/5674**

**(Case #ZON2012-01375)**

**Gulf Coast Hub Caps & Wheels, Inc.**

**3257 Spring Hill Avenue**

**(Southwest corner of Spring Hill Avenue and Durant Street)**

**Side Street Setback and Site Coverage Variances to allow a building expansion within 4.5' of a side street property line and 54% site coverage in a B-3, Community Business District; the Zoning Ordinance requires a 20' side street building setback and allows 50% maximum site coverage in a B-3, Community Business District.**

**Type of Variance**

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 support of the application:

- 1) Jerry Byrd, Byrd Surveying Company, 2609 Halls Mill Road, Mobile, AL, and
- 2) Mike Loen, Owner, Gulf Coast Hub Caps and Wheels, 3257 Spring Hill Avenue, Mobile, AL.

They made the following points in favor of the matter:

- They appeared before the Board in July of 2011, and the approval had expired;
- Mr. Loen had a previous design professional submit the previous site plan, and now he wants to proceed.

Mr. Hoffman stated that he didn't know that they could use the previous plans as it was drawn by a different design professional, and the conditions of the approval were never submitted. The site plan that was submitted with this application is different than the one approved.

The Chair verified that they were essentially starting over.



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Mr. Metcalfe stated that he recalled that Mr. Byrd came in to discuss the setbacks and that Don Williams had come in to discuss code compliance of the buildings that were built. He thought that the buildings were built without permits or plans. Mr. Metcalfe asked the applicant if he had addressed any of the code problems with his engineer.

Mr. Loen stated that he had hired some people who had permits, and he had some people come out and inspect what they had. He said that at first, Frank Dagley was his engineer, and he had permits on the building, and the City inspectors came out. He doesn't understand how he got this far building a building in the City of Mobile and now has no permits. He hired people and is out a lot of money, and now he's expected to tear it down.

Mr. Guess stated that there were a couple of details he remembered that needed to be addressed - there was a fence that was erected that had to be removed.

Mr. Loen said that it was a metal 12' foot high wall that the Mobile Police asked him to put up because he was being broken into so much. After he did that, the Police were happy with him.

Mr. Byrd stated that metal wall was inside the right-of-way of Durant Street. They proposed to tear that down and build a wall 4½' from the property line at one corner which is 14½' from the curb line. It would go down and square up enclosing a paint booth. This is an old portion of the building that is right at the right-of-way line that was there prior to Springhill Avenue being widened. They are proposing tearing that down to create parking and a driveway going through which will have additional landscaping. He wasn't sure where the dumpster was relocated to on the new site plan.

Mr. Guess asked if the Board had a revised site plan.

Mr. Byrd stated that they did not have a new site plan and where the dumpster would be located.

Mr. Hoffman stated that the copy of the site plan that was prepared by Don Williams was in the file, but the dumpster removal cannot occur in the right-of-way so that needs to be addressed.

Mr. Roach stated that he went to a couple of pre-development meetings on this and there were multiple buildings that were put in different positions that were definitely a fire hazard. He stated that the fire code definitely wouldn't have allowed it, so there couldn't have been fire inspectors' approval on any of the buildings. He thought that they ought to be looking at a site plan now that showed if those buildings were still there or not. He thought those buildings were probably still there.

Mr. Loen confirmed that the buildings were still there.

Mr. Roach stated that he didn't think that the Board should approve anything with the buildings the way he saw them.

Mr. Byrd stated that the site plan he turned in had the existing buildings on it, and they are still standing today.

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Mr. Roach said that if they were going to keep those buildings they would be looking at sprinkler issues. He thought that at the last meeting he went to that they had stated that there were some buildings that were going to be taken down.

Mr. Byrd said that there is once they get it approved and can implement it. It will be part of the site plan to move that wall back.

Mr. Roach stated that he just wanted to make note of it because there was a lot of information missing.

Mr. Metcalfe asked what has happened over the last 12 months why none of this was done since it was approved a year ago.

Mr. Loen said that the time went by, and he didn't understand the time limitation. He can get started now and move forward immediately.

Mr. Guess stated that they need a new site plan submitted for review, and there is obviously some work that needs to be done as it relates to what was previously approved. All of the following needs to be taken into consideration: the wall, dumpster pad, the drive area, removing the building.

Mr. Palombo stated that they need an accurate site plan and building plan to review showing what exists right now and what they propose.

The Chair stated that he would consider a 30-day holdover and at that point the Board would make a decision. He asked if there were any more questions from the Board.

Mr. Metcalfe stated that what the Board was looking at was the use variance and that the building didn't come under the Board's purview. He asked how the staff would handle retroactive permitting on the buildings that have already been built.

Mr. Hoffman stated that based on the pre-development meetings that have occurred with the applicant, any structures that have been built without being permitted will have to meet the 135 mph wind load requirements of the building code and any fire code requirements. The existing structures may not be able to be modified; he didn't know as he's not an engineer.

Mr. Byrd stated that he's showing where the building wall will be and that shows how much space is there to landscape and put the curb-cuts in. He thought that whether it would meet the fire code for central permitting was another thing entirely.

Mr. Roach stated that some of the problems they ran into in the predevelopment meetings is that they would never have gotten permits/approvals for the buildings as they are sitting now as there is no separation. He didn't know about the setbacks, but there is so much right together on the one lot. Now he's hearing the word "existing" several times, but previously it was non-conforming existing buildings. He didn't know what the steps would be legally for them to have him take the buildings down, but the fire department could never approve any part of it if it is not all up to the fire code. If they try to come back to the fire department for them to do an acceptance inspection, the fire department won't sign off on it because there are existing

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buildings there that were never approved to begin with by building or fire. So, they must make some concessions and be willing to sprinkle a lot of it or take some of it out.

Mr. Loen asked if a firewall would help.

Mr. Roach stated that they sat down and discussed all of this at their first meeting and everything was explained to them.

Mr. Loen replied that he was very sick but was told he couldn't miss the meeting.

Mr. Guess stated that any discussion they would have right now is based on the previous plans. A lot of that has now changed, so therefore new plans and coordination with the Fire Department and the City as to how to address to code issues that they are expressing concerns about will be needed.

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

Mr. Ladner questioned what Mr. Byrd had stated regarding the curb-cuts. He advised Mr. Byrd that he would need a better, more clear and detailed image as he was concerned about conflicts with the proximity to Springhill Avenue. He reminded Mr. Byrd that they wouldn't want anyone backing out when someone else was pulling in.

Hear no further discussion, he opened the matter for a motion.

A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to **holdover the above referenced request, until the August 2012 meeting to allow the applicant to revise the site plan, with revisions due to staff by July 16, 2012.**

The motion carried unanimously.

**#5761**

**(Case #ZON2012-01464)**

**Mr. & Mrs. E. Luckett Robinson, II**

**65 North Monterey Street**

(West side of Monterey Street, 175'± South of Old Shell Road)

**Side and Rear Yard Setback Variances to allow the construction of a carport to be located 1.8' off side property line and 0' from rear property line in a R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' minimum side and rear yard setback with combined side yards of 20' in an R-1, Single-Family Residential District.**

The Chair announced the matter advising that it had been recommended for denial. He also advised that Mr. Milling had recused himself from the matter, but they still had a quorum so they could proceed. He advised the applicant should address the Board regarding the subject at that time.

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E. Lockett Robinson, II, 65 North Monterey Street, Mobile, AL, spoke on his own behalf and made the following points in favor of the application:

- He presented a letter from his neighbor to the south, Dr. Lee Van Dyke, a professor at University of South Alabama, approving the construction of the carport in its present location;
- There is an alleyway to the west side which is the back yard of his residence;
- Mr. Lockett's property is located on the west side of North Monterey;
- The alleyway has been unused and fenced off for the last 40-50 years – a photograph was presented that showed an aged water oak in the alleyway;
- He had an addition built onto his home in 2006-07, and at that time, he submitted a site plan to the City which shows the location of what would be the future carport;
- The carport is situated on the southwest side of the site plan;
- It was approved, he built the addition, and he installed the concrete pad for the future carport;
- He went to construct the carport this spring and learned that it was potentially over the property line into the west side alleyway that is no longer used;
- He had a survey done and learned that the concrete pad does encroach into the unused alleyway by about a foot;
- His request is to construct the carport contiguous to the alleyway, not encroaching on the alleyway, then having a setback on the south side of about 2' from the southern property owner who approves of the location;
- This is an historic area;
- The brick patio was existing, and he proposed the addition and carport as he did to maximize the green space;
- The house was a duplex in the '40s and '50s, and the carport is situated where everyone parked at that time when the alleyway was in use;
- The property south of his property, the property two doors north of his property, the property on Reid Avenue that is contiguous to his back yard on the west side, and the property two doors down to the south all have carports that either abut or encroach the alleyway;
- He is seeking permission to construct a carport contiguous to the alleyway. He will redo the pad by 1' since it does encroach the alleyway.

Mr. Palombo stated that the 2006-07 permit allowed for the construction of the addition to the two-story structure but not the carport. In 2010, a permit was issued for a slab. It was conferred to him at that time that slabs can exist within the setbacks, but if any building was constructed, it would have to meet the setbacks. He thought that the residents should have taken this over 20-30 years ago, and it is like this all over where the alleyways become portion of the used area of the adjacent property. The Board stands by going through the motions to try to get the vacation, or have Mr. Robinson apply for vacation to get half of that right-of-way. He did not have an issue with the side yard setback.

Mr. Robinson stated that, with all due respect to Mr. Palombo, he obtained a building permit in 2006 to do the addition with this site plan. Towards the end of the construction in 2007, he had the plan changed to show the slab, and it was permitted and constructed in 2007. He stated that he did all the work in 2006 and 2007, and he didn't get a permit or do any work in 2010.

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The Chair asked if there were any more questions from the Board.

Mr. George Davis stated that if Mr. Robinson did have any structure that infringes on the public alleyway, then his recourse would be to apply for a non-utility right-of-way usage agreement application that goes through the City Engineer.

Mr. Guess stated that the applicant has agreed to build along the line not in the alleyway, so the setback is really the issue before the Board.

Mr. Hoffman clarified that now the applicant is requesting a 0' rear yard setback and a 1.8' side yard setback.

Mr. Lawler stated that he had some question in his mind as to whether this was a public alley. He said that only those alleyways that are maintained by the City and used by the public are considered public alleyways. There are very few that have been "dedicated" and many have been abandoned over the years as this one apparently has been. He didn't know if this one had ever been dedicated or not, but apparently it hasn't been used in many years. There is a method for a private vacation; the City doesn't deal with vacating any alleyway that isn't opened and used by the public as a right-of-way. If it were necessary to vacate this alleyway, it would be a private proceeding between the applicant and his neighbors.

Mr. Robinson stated that he did look at doing that, but it cost him \$500 for this survey, roughly \$200 for the variance application, and his time in getting all of this done. The cost of getting the vacation would have far exceeded the cost of getting the variance because he would have to work with all the utilities. The power line doesn't go past where the garage is located; it stops at his yard. His house is the last one, so the power line isn't an issue. It would have just been more expensive to accomplish the same thing to get the vacation.

Mr. Hoffman stated that he walked this alley back in January, and there is access to the alley from New Hamilton Street which is the south entrance to the alley about four properties up. There are utilities located in that alley by evidence of meter boxes in the ground. From the north side from Old Shell Road, you can only come in to the second property which is apparently using it for some access. As Mr. Robinson has said, the alley is overgrown or fenced in and is not a thoroughfare.

Mr. Metcalfe thought that the applicant had addressed all the issues and since the applicant is willing to cut back his slab back outside of encroaching into the alley, he has no issue with it.

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) the existing concrete slab will be removed from where it encroaches into the alley, so that the new structure will have a 0-foot rear yard setback.**

The motion carried with Mr. Milling recusing himself from the case.

#5762

(Case #ZON2012-01527)

The Creel Company

**3804 Norwood Lane**

(North side of Norwood Lane, 70'± West of Stimpson Lane [not open] extending to the South side of Isabella Lane [not open] 100'± West of Stimpson Lane [not open])

**Surfacing, Tree Planting and Screening Variances to allow a contractor's storage yard in an I-1, Light-Industry District, (rezoning pending) with a partially open vegetative buffer, aggregate parking surface and no tree planting; the Zoning Ordinance requires the storage area to be completely enclosed with an 8' high wall or privacy fence, the equipment parking area to be paved in asphalt, concrete, or an approved alternative paving surface, and full compliance with tree plantings.**

The Chair announced the matter, advising it had been recommended for holdover to the August 6, 2012 meeting to allow the applicant to revise the site plan to incorporate any pertinent conditions of approval of the subdivision and rezoning, if both are approved. He advised the applicant should address the Board regarding the subject at that time.

Derek Peterson, 8081 Oak Hill Drive, Semmes, AL, spoke on behalf of the applicant and stated that they were in agreement with the recommendation for holdover.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present 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 above referenced request to the August 6, 2012, meeting to allow the applicant to revise the site plan to incorporate any pertinent conditions of approval of the subdivision and rezoning, if both are approved.**

The motion carried unanimously.

#5763

(Case #ZON2012-01541)

Waterfront Rescue Mission

**279 Washington Avenue**

(Southwest corner of North Washington Avenue and Congress Street)

**Parking Ratio Variance to allow 38 parking spaces to serve an emergency shelter facility with 100 beds, a 3,967 square foot medical clinic, a 1,468 square foot dining area, and 6072 square feet of office space; the Zoning Ordinance requires 53 parking spaces be provided for these uses within the Hank Aaron Loop.**

**Type of Variance**

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.

Paul Davis, Paul Carpenter Davis Architecture, PC, 61 St. Joseph Street., Mobile, AL, spoke on behalf of the applicant and stated that they were in agreement with the staff recommendations.

**July 2, 2012**  
**Board of Zoning Adjustment**

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

Mr. Ladner asked the applicant if he could move the driveway to the west side on State Street and still get their parking in there to avoid a conflict with people pulling in and out.

Mr. Davis stated that it may end up costing the applicant a few parking spaces to maneuver around the corner.

Mr. Ladner asked if they could approve it contingent upon coordination with Traffic to make sure that all the dimensions are correct: the parking stalls should be a minimum of 9' wide and 18' deep and all the aisles need to be 24' feet, and the driveway needs to be 24'. It looks like they have a 20' radius on their driveway which is good, but the biggest problem he saw is right there on the intersection.

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) **completion of the subdivision process for the site;**
- 2) **compliance with the conditions of approval for the Planning Approval and Planned Unit Development;**
- 3) **coordinate with Traffic Engineering regarding the Southern parking lot access point for North Washington Avenue and State Street; and,**
- 4) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

**OTHER BUSINESS:**

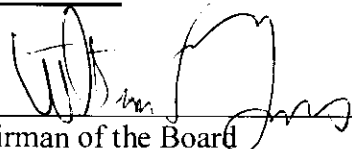
Approval of 2012-2013 Meeting and Deadline Schedule.

A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to approve the 2012-2013 Meeting and Deadline Schedule.

The motion carried unanimously.

There being no further business, the meeting was adjourned at 3:16 p.m.

**APPROVED:**

  
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Chairman of the Board

/lw