

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF APRIL 4, 2005 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Reid Cummings, Chairman  
Stephen J. Davitt, Jr., Vice-Chair  
H. Lamar Lee  
Martha Collier  
Vernon Coleman  
Sanford Davis

**MEMBERS ABSENT**

William Guess

**STAFF PRESENT**

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

**OTHERS PRESENT**

David Roberts, Traffic Engineering  
David Daughenbaugh, Urban Forestry  
Wanda Cochran, 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:**

The minutes of the meetings of February 14 and March 7, 2005 were considered for approval.

A motion was made, seconded and so ordered to approve the minutes as submitted.

**PUBLIC HEARINGS:**

**#5300**

**(Case #ZON2005-00599**

**Jeffery W. Jurasek**

**117 Florence Place**

(West side of Florence Place, 425'± North of Old Shell Road)

**Side Yard Setback Variance to allow a 528 square foot addition “in-line” with the existing dwelling 5’ from the side (North) property line; a minimum side yard setback of 7.14’ is required for a lot that is 50’ wide at the front building setback line in an R-1, Single-Family Residential District.**

Malea Jurasek was present representing her husband, Jerry Jurasek. They were seeking a side yard setback variance so they could add a master bedroom onto the back of the existing structure.

In discussion Mr. Lee noted that the staff had recommended approval with the provision of gutters and downspouts.

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After discussion a motion was made by Mr. Lee and seconded by Mr. Davitt to approve this request for a Side Yard Setback Variance at the above referenced location, subject to the following condition:

- 1) the provision of gutters and downspouts.

The motion carried unanimously.

**5301**

**(Case #ZON2005-00607)**

**Paulk Properties-Mobile, LLC**

**2051 West I-65 Service Road North**

(West side of West I-65 Service Road North, 300'± North of Brookdale Drive North)

**Parking and Access/Maneuvering Surface Variances to allow aggregate parking and access/maneuvering areas in an I-1, Light Industrial District; parking and access/maneuvering areas must be asphalt, concrete or an approved alternative paving surfaces are required in I-1, Light Industrial Districts.**

Frank Dagley, 717 Executive Park Drive, consulting engineer for Mr. Paulk, presented this application. Mr. Dagley stated that the site was in an I-1 zone and there was a large paved area on the north side of the building. When this property was purchased several years ago by Mr. Paulk, it was an existing trailer sales lot, and the aggregate surface was already there. Mr. Paulk was presently using it to park some of his trailers when he had overflow situations. The future plans were to build a very large building on that site where the parking area was now. Mr. Dagley said that presently the storage facility was about 85 percent full, so the applicant was anticipating putting up a second building within a few years. They did not see the need to pave this area since the use really had not changed from what it was before.

Robert Paulk, 2051 W. I-65 Service Road, echoed Mr. Dagley in that this site was being used for its original purpose. He said when he purchased the property there were trailers on it with this existing surface material. They were currently at 85 percent capacity in this 45,000 square foot building. When they got approval to build the existing building, the future expansion for another building was clearly shown on their plan. The truck parking they use was for overflow. Their primary parking is on the north side of the building where they have their docks. They had a small fleet of 18-wheelers that travel throughout the country. At this particular time of the year when business is slow, they do have a few extra trucks parked there. Mr. Paulk said they were not talking about doing anything that other companies in their industry do currently, such as Gulf City Truck and Trailer right down the road from them, Baldwin Transfer right off of I-10, and Beard Equipment, and Smith Industrial Services. They all use aggregate to park overflow vehicles. He asked that they be spared the grief of having to lay asphalt and then come back and have to tear it up when they put another building in. He said it would be an extension of the current building, not a separate building.

Mr. Cummings asked at what point in time they planned to expand their facility

Mr. Paulk said they were at about 85 percent capacity right now, and this was their slow time of the year. Summer time was their busy time and they might hit capacity this summer. He said it was going to depend on whether they could get financing for an expansion.

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Mr. Cummings asked if, when they do plan on constructing the building, they planned on paving the remaining area that would not be covered by building.

Mr. Paulk explained that they probably would on the back side. Basically, the front elevation would continue south, and from a 45,000 square foot building it would turn into an 85,000 square foot building. It would be a pretty significant building on the front, which would limit them from any kind of maneuvering. The truck parking would actually be on the back side, where they own property under the power line easement. If possible, they would like to use the same aggregate and scrape that aggregate and move it to the back under the power line easement and reuse the same aggregate to build the new building on. He felt it would be a stable foundation.

Mr. Cummings asked if, when they expand to 80,000 square feet, there would be sufficient land area remaining for required parking.

Mr. Paulk said if you looked at the percentage of parking they had now, it was insignificant compared to the property available. Regarding the power line easement, he said he did not think you could pave under a power line easement.

Mr. Cummings said that you could pave under it, but you could not put a building under it.

Mr. Coleman asked what the staff's reason was for recommending denial.

Mr. Palombo said that paving was required for parking and circulation, and they were parking 18-wheelers and vans on the site.

Since the existing building was completed in April, 2004, Mr. Davitt asked why the Board was just now looking at it.

Mr. Palombo said it was not in compliance.

Mr. Daughenbaugh added that awhile back when this property was developed there were some issues with the inspectors. He said he actually made one of the final inspections at this site and this was brought up at that time. Urban Development was aware of it. Mr. Daughenbaugh did not know the exact outcome, but he knew Mr. Olsen followed up and settled it. Apparently it was resolved at that time, because they did receive their certificate of occupancy. It was brought up that there was some maneuvering area that was not paved. He said the difference here was that the previous development was for storage of mobile homes only. They now have truck and vehicle traffic, and it was also public. There was nothing preventing the public from driving around the building or off to the left side of the building where it was unpaved. Mr. Daughenbaugh said that was one of the biggest concerns the staff had at that time.

Mr. Cummings asked the staff if, when the permit was issued, the plans included paving of the area that was now used for maneuvering.

Mr. Palombo said no. It was just the northern section; the truck loading dock area.

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Mr. Paulk asked if could make a correction. He said that originally this site was used to park trailers to be sold. It was not a storage yard. The trailers would be sold and they would be moved. It was an active yard.

Regarding public vehicles driving through the area, Mr. Dagley said that Mr. Paulk would be willing to fence this off so the only thing that would go in there would be the truck traffic.

Mr. Cummings said they were getting complaints that people were driving through it.

Mr. Dagley said he thought the complaints had been from the inspectors who went out there and saw the tractor trailers parked there.

Mr. Paulk pointed out that the State Highway Department said they would have to use the south side of the building for ingress and egress, and that he had to come in with a radius turn off of the service road. That contract had been signed. He also said they had never heard any complaints about people driving through the property because there was no place to go.

Mr. Cummings noted that the site plan showed two curb cuts to the service road, and the one farthest to the south was the one that the DOT wanted them to use for ingress and egress.

Mr. Paulk said they could use it, and were using it now. The DOT wanted them to go ahead and pave it, which was not a problem.

Mr. Cummings asked if he understood that the area they planned to pave would be basically from the footprint of where the southeastern edge of the future building would be, from that point towards the right-of-way as you get closer to the service road.

Mr. Paulk said that was correct, and it was already landscaped. They would pave it for more employee parking. That would probably be another 200 feet of paved, striped parking up against facing the service road.

Mr. Cummings clarified that if approved, the applicant would plan to pave that area under their agreement with DOT, and would then agree to fence from the point of their building to their south property line to keep the traffic from moving to the back of the property.

Mr. Paulk said the fence was a security issue. It had nothing to do with traffic. Also to clarify, Mr. Paulk said they were not going to run the pavement all the way down the front of the service road until they did their expansion. All they were going to do was put in a driveway right there at that south entrance.

Mr. Palombo noted that they would not be allowed to construct a driveway without proper asphalt to circulate vehicles in there. They would need a permit from the State.

Mr. Paulk said he just knew that they had to have a 40' wide turning radius for a tractor-trailer.

Mr. Cummings asked if he understood that the existing driveway on the south side would be widened to accommodate the 40' that they needed to get in.

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Mr. Paulk said the driveway was already there. The DOT was just requiring them to pave it.

Mr. Davitt asked if the future warehouse would also have loading docks or bays on that end.

Mr. Paulk said it would actually be on the west end, away from the highway. That would allow them to use the easement under the power lines to move the trucks and back up to the dock.

Mr. Palombo pointed out that the Baldwin Transfer site mentioned had been in existence for awhile. Beard Equipment was basically allowed by a variance in 2003. Future development of the future warehouse was going to require another surface variance because this variance, if approved, would be site specific. He also noted that the maneuvering area to the west of the dock would have to be asphalt.

Mr. Cummings suggested that if the variance were considered, perhaps there could be a time limit put on it which would create a situation at some point in the future where either that variance would have to be looked at again, or perhaps during that period of time when the applicant gets ready to build his building, the whole site be dealt with at that point.

Mr. Coleman asked why they were requiring asphalt, rather than something that would allow the water to seep through.

Mr. Palombo said they could design an asphalt or concrete parking lot to retain water in the parking lot, and release it at a certain time. That was a requirement of the Ordinance. He said any parking and circulation area must be hard-surfaced.

Mr. Cummings said Mr. Palombo was correct. The Ordinance did require it, although there had been instances in the past where this Board had granted variances for surfaces that were not hard surfaces.

There was further discussion about putting some type of time limit on it before the site comes back for the future warehouse expansion.

Ms. Cochran asked if she understood that the applicant was asking for the right to temporarily use the site until such time as he developed it.

Mr. Cummings said that was the basis of his application. He planned within the next year or two to double the size of his facility, and he would double it in an area that the Ordinance was currently requiring him to pave as asphalt. It would be a tremendous cost to prepare the site and to pave it, and just a year or two later for him to have to dig that up and redo it, and put concrete down for a slab for his building.

Ms. Cochran said she did not think there was such a thing as a temporary variance.

Mr. Cummings thought the Board had granted variances in the past that expired within certain periods of time.

Ms. Cochran asked if it would be better to table the application until next Fall and reconsider it at that time.

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Ms. Pappas said she was not sure what precipitated the application, except for the fact that the site was out of compliance and this would determine if they could continue with the aggregate. The determining factor for both the applicant and the Board was the warehouse. It was within the Board's jurisdiction to hold it over until the Summer. If the Summer has passed and the applicant was not proceeding with the warehouse, the Board would have a better idea of where they needed to go.

Mr. Cummings said the applicant mentioned strongly that his business condition this summer was going to dictate his plans for future expansion. He suggested maybe a common sense approach on it might be to table it for six months.

Mr. Paulk said he did not know if he would be in a position financially in six months to go ahead with an expansion. It would cost about \$2 million to build a new building.

Mr. Cummings said he understood, but it was being suggested that the application be tabled for a six-month period, which forestalls any expenditure at this point, at least for six months, on asphalt. Then perhaps the Board could look at it again in six months.

Mr. Paulk said he was just asking for a decision to continue to use it for its original purpose, which was to park trailers on it.

Mr. Cummings said he understood, but truthfully speaking, when the applicant pulled his permit to build this building he was likely fully aware that that area was going to have to be paved if he intended to use it for maneuvering or storage.

Mr. Paulk said he knew they would have to pave the north side, which is what they did.

Mr. Davitt asked if the applicant was under any kind of requirement by any city or county agency right now to have this done. If he did not have this done, would he be shut down?

Mr. Paulk replied no.

Ms. Collier expressed concern about runoff, with contaminants that come from these large vehicles. She asked who oversees that.

Ms. Pappas said that in terms of stormwater detention, that would be City Engineering. Anything hard surface, asphalt, concrete, building or any other hard surface over 4,000 square feet automatically required stormwater detention. If the applicant added another warehouse, just the warehouse itself would require recalculation to determine that the detention pond for the site could accommodate the additional runoff. Ms. Pappas did not know how gravel figured into their calculations.

Mr. Paulk said Mr. Dagley designed the retention holding area for this site, and they were retaining the water that they were supposed to, and the gravel was taken into account.

Ms. Collier commented that when they expand the building they were also going to expand the amount of vehicles that come in and out.

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Mr. Dagley said that was correct, but part of the expansion would be re-engineering the site as needed to take care of water retention. He further stated that this Board was here to enforce the Ordinance as it is. He said that Ordinance had some flaws in it, and he felt the Board needed to realize that. He felt a big flaw in the Ordinance was requiring concrete and asphalt paving in a big trucking facility in an I-1 district. He said the sites that Mr. Paulk pointed out had been overlooked. He said if you put asphalt in a big trucking facility and trucks start maneuvering, it's going to tear up the asphalt. This is in an industrial area, away from residences; it is on the Interstate. Mr. Dagley felt that this was certainly a gray area that needed to be addressed.

Ms. Cochran stated that Mr. Dagley was right. This Board had a specific role in the grand scheme of city ordinances, and that role was to grant variances only when there was a hardship associated with the property which prevented compliance with the Ordinance. The issue of whether the Ordinance was a good ordinance or not was not in the Board's jurisdiction. That stated, Ms. Cochran said if that was indeed the case, and if the Board was indeed concerned about that to the extent that they felt like they were having to grant variances because of a misstated Ordinance, then perhaps the Board ought to table this matter for six months, pass a resolution asking the City Council to look at this issue, and then revisit it at a later time. She said that her only concern was when you grant a variance, you have to have a finding that there is some feature of the real estate that prevents compliance. She did not see that in this case. She felt that before the Board charged down the path, perhaps they needed to pull back and look at it.

Mr. Cummings agreed. He said he was not interested in charging down a path and making somebody suffer the consequences of an ordinance that perhaps might contain a flaw in someone's view. He did not disagree that in an industrial area it would have to be extremely thick asphalt to withstand the pressure of an 80,000 pound truck moving on top of it. Having to put down 8" concrete would really drive the cost up, and would not make a lot of sense to do that.

Mr. Palombo said that on the other had you had to consider what 4" aggregate was going to look like when you got an 80,000 pound truck circulating in that area. He asked where the water and the mud were going.

Mr. Cummings said the water and mud were going to go in his retention pond, which the applicant was responsible for maintaining. And to the extent that water comes out of his retention pond, it was discharging the stormwater system. That was something Engineering could deal with. Mr. Cummings said he was not interested in charging down the path, but he could also understand Mr. Paulk's standpoint. He was looking for a decision one way or the other. Mr. Cummings said he had no problem petitioning the City Council to request a review of this Ordinance to see if it makes sense in every application.

For the Board's information, Ms. Pappas pointed out that the paved parking and access requirements of the Ordinance were set up based on zoning districts, not on uses. Because the property was zoned I-1, their parking had to meet the ratios, and must be paved with asphalt or concrete. I-2 property was exempt. Ms. Pappas said if this property were zoned I-2, just like the property almost adjoining to the north, they would not be there today.

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Mr. Dagley said he had thought about the I-2 situation. He said if they could get a six months stay they could attempt to get the property rezoned. If it were rezoned, they would not have to come back to the Board.

Ms. Pappas said that was not one of the reasons for rezoning.

Mr. Cummings noted that the I-2 was not contiguous. This would be pocket zoning.

A motion was made by Mr. Davitt and seconded by Mr. Davis to approve the request for Parking and Access/Maneuvering Surface Variances to allow aggregate parking and access/maneuvering areas in an I-1, Light Industrial District at the above referenced location subject to the following condition:

- 1) that any future addition(s), including the one shown on the site plan submitted, will require a new application to the Board if a parking, access and maneuvering surface(s) other than asphalt, concrete or asphaltic concrete, is proposed.

In further discussion Mr. Palombo asked if they could get some delineation on the curbing.

Mr. Paulk said there was no curbing now on the approved north end of the building.

Mr. Lee asked what kind of curbing Mr. Palombo would recommend.

Mr. Palombo said it was up to the engineer.

Ms. Pappas said the Board had done either concrete curbing or vegetative buffering with a berm. The staff's goal was to make sure, due to flooding or hard rain, that the gravel does not leave the site.

Mr. Davitt asked if the applicant would have a problem having some type of small berm to prevent runoff.

Mr. Paulk stated that runoff was not a problem right now. He said storm retention had been engineered, and with the recent 13" rain they did not have runoff problems.

Ms. Pappas asked if the retention pond was in the area of the proposed future building. Mr. Paulk said it was.

Mr. Cummings asked if the stormwater retention had been designed to relieve runoff from an aggregate surface or was it designed to relieve runoff from a paved surface.

Mr. Dagley said he thought they took the whole developed site and designed a retention pond based on that, which would have included that as being aggregate. He said the runoff difference in aggregate and asphalt was not much. On asphalt you assume 90 percent runs off; on aggregate you assume 70 percent runs off. So there would be very little difference in the design if they had designed it for either one.

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Mr. Cummings noted that the site was not in a flood prone area. Mr. Paulk said consequently, a berm would be an unnecessary expense.

Mr. Cummings stated there was a motion and a second on the floor to approve the variance. He noted that down the road, when the applicant gets ready to expand, and the request at that time is to expand and have a surface that is aggregate, unless they are successful in an attempt to rezone the site to I-2, they would have to come back before the Board for a variance.

Mr. Paulk said he understood.

Mr. Cummings called the question. The vote was unanimous in favor of the motion.

**#5302**

**(Case #ZON2005-00608)**

**M. Don Williams, III (Albert & Anne Haas, Owners)**

**62 Marston Lane**

(East side of Marston Lane, 155' ± North of Oakland Avenue)

**Rear Yard Setback Variance to allow construction of a two-story, 1,600 square foot, double garage/playroom to an existing dwelling 2' from the rear property line; a minimum rear yard setback of 8' is required in an R-1, single-Family Residential District.**

M. Don Williams, III, engineer for this project, noted that the application was recommended for denial. He understood that in 1998 there was an application made for expansion of the master bedroom that came to within three feet of the property line. That was not accomplished, and the request now from the same owners was to make a two-story structure. The lower area would be a double car garage, and the upper level a playroom. There would be no second floor windows overlooking the neighbors. The neighbors were not present, but said they would have no problem with this proposal. Mr. Williams said the recommendation was for denial because they were at two feet. He said it would be no problem for them to change to three feet to go back to what was approved in 1998. He said he talked to the owners this morning and they would just nip off a little bit of that structure because it all occurs pretty much in the garage area. They would have no problem at all to switch that to three feet, and the plans submitted for building permit would reflect that.

Mr. Palombo said gutters and downspouts would be required.

Mr. Williams said gutters and downspouts would be no problem at all and they would plan to do that.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Lee to approve a Rear Yard Setback Variance to allow construction of a two-story, 1,600 square foot, double garage/playroom to an existing dwelling three feet from the rear property line at the above referenced location, subject to the following condition:

- 1) the provision of gutters and downspouts.

The motion carried unanimously.

**#5303**

**(Case #ZON2005-00609)**

**M. Don Williams, III (John Roberts, Owner)**

**22 Lancaster Road**

(Southeast corner of Lancaster Road and York Place)

**Rear and Side Yard Setback Variances to allow the construction of a carport and laundry room 4' from the side property line and 4' from the rear property line; an 8' minimum side and rear yard setback is required in an R-1, Single-Family Residential District.**

M. Don Williams, engineer for the applicant, stated that this exact same site plan was approved in August 2002. The gentleman got a renter before he put up his garage area; that renter is now gone and he was going back to his original need to put up a proper structure to attract another tenant. He was going back to his original plan.

After discussion a motion was made by Mr. Lee and seconded by Mr. Davitt to approve this request for Rear and Side Yard Setback Variances to allow the construction of a carport and laundry room 4' from the side property line and 4' from the rear property line at the above referenced location, subject to the following condition:

- 1) the provision of gutters and downspouts.

In further discussion Ms. Collier asked about the height of the proposed structure and the neighboring structure.

Mr. Williams said the proposed building would just be a one-story structure with a pitch type roof to it. As far as the neighbor's building, there was a garage there that was flattened by Hurricane Ivan.

Ms. Collier said her concern was that if the neighbor wanted to rebuild exactly what he had.

Mr. Williams said they had about 4 feet over there.

Ms. Collier said then there would only be 5 feet between buildings.

Mr. Williams said that would only be at that one point. They were not parallel.

Ms. Pappas said gutters and downspouts could be required to keep his flow off the neighboring property.

Ms. Collier also expressed concern about a turn, which she pointed out, and about emergency access.

Mr. Williams said it was a carport. All you would have is a column there. There would be a roof over the top. You would have all the accessibility you would need.

Mr. Cummings called the question. The vote was unanimous in favor of the motion.

**#5304**

**(Case #ZON2005-00618)**

**Peter J. Palughi**

**3408 Bay Front Road**

(West side of Bay Front Road, 162'± North of Stewart Road)

**Use Variance to allow a second residential dwelling unit, in an R-1, Single-Family Residential District; only one dwelling unit is allowed in an R-1, Single-Family Residential District.**

Peter J. Palughi, Jr., stated that he was present on behalf of his father, Peter J. Palughi, Sr., and had power of attorney for him. He was seeking approval of a use variance to allow a garage apartment as a dwelling place. It appeared that the garage apartment was built at the same time as the primary dwelling. He said there was a hardship in this instance based primarily on his father's health. He had a stroke a few years ago and needed assistance cooking, cleaning and those kinds of thing. The garage apartment would be used as a residence for a full time sitter for his father. Mr. Palughi said his brother had lived in the garage apartment two or three years while he was in college in the early 1990's. Prior to that he did not know who lived there, but somebody lived there because it was all set up for plumbing, heating and so forth. He asked the Board to allow him to return this unit back into a dwelling place for the purpose of having a full time sitter for his father.

Mr. Cummings stated that the Board had seen similar applications. Unfortunately, many of them had not fared well because while the Board can understand the circumstances, the Ordinance was written to prevent more than one dwelling in an R-1 district, because to do so obviously would change its zoning by implication.

Mr. Palughi said it was his understanding that the statute allowed people to continue to have a garage apartment, so long as the garage apartment did not remain vacant for over two years. He questioned the Board's position that they could not under any circumstances allow this.

Mr. Cummings stated that it was not the Board's position. It was the Ordinance's position. The Board had seen situations where the second unit on the site had remained vacant for more than two years, and at that point it lost its nonconforming use. The staff had pointed out many times that the effect of the Ordinance is that as uses become nonconforming and remain so for periods of two years or more, it goes away. That was the whole point of the Ordinance. Mr. Cummings said he did not personally agree with it as it applied to a case such as Mr. Palughi's, because this was a common situation facing families. The Board has suggested that the staff suggest to the Council that the Ordinance be looked at regarding these types of situations, because as the population ages people are living longer and baby boomers are more affluent. It may be that the Ordinance should be changed to accommodate this type of situation. Mr. Cummings further stated that an apartment was going to be determined by a kitchen. If there is a functioning stove, functioning oven, functioning refrigerator and dishwasher, it is a full-blown kitchen, which means it is an apartment. If on the other hand you look at it like it is nothing more than a bathhouse that perhaps has a refrigerator and a microwave, then it is not an apartment with a full-blown kitchen. The determining factor is that if it has a stove, then it is a kitchen. He asked Mr. Palughi if it was his intention to make a full-blown kitchen here.

Mr. Palughi said he thought that the individual that was interested in helping him out here could survive with a microwave and a plug-in counter top burner.

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Mr. Cummings suggested that perhaps this building could be used as Mr. Palughi wants it to be used without violating the Ordinance, and without the Board denying its use at all by not going in the direction of a full-blown kitchen.

Mr. Palughi asked if it would be necessary to amend his application or just to withdraw it.

Mr. Cummings said if he withdrew the application he would be free to go about his business. He would need a permit, however, to do the interior work.

Mr. Palughi said he spoke with the Permitting Office and they said it looked like an apartment to them and that he would have to get a variance.

Mr. Cummings said that was correct, and the reason it looked like an apartment to them was because it had a full blown kitchen.

Mr. Palughi said it had a mini stove with three burners, and that could be easily removed.

Ms. Cochran stated that the Ordinance definition of dwelling unit says that a dwelling unit is one or more rooms in the same structure connected together and constituting a separate independent housekeeping unit for permanent residential occupancy, and with facilities for sleeping and cooking. Sleeping and cooking have to both be present for there to be a dwelling unit.

Ms. Collier asked Ms. Cochran if they were looking at the two-year period when it was no longer an apartment or a dwelling, would that mean that those things had to be removed at that time.

Ms. Cochran replied no.

Ms. Pappas stated that the staff used to look at dwelling units as they existed. The specific case that brought this application to a head was on North Monterey. It was an Administrative Review. The Board determined that if the facility was vacant for two years or more, regardless of the equipment and wiring and plumbing still being there, if the building or unit had been vacant, then it had lost its nonconforming status.

Ms. Cochran said there were a lot of people who could criticize the type of zoning we have, but the truth of the matter was that this is what we have; and until the City Council changes it we cannot adopt a policy that would allow granny flats, no matter how wonderful and progressive and sensible that might be, because it was the job of the City Council to regulate policy.

Mr. Cummings further stated that it was not the Board's job to make the law. They have to deal with the Ordinance as it is written.

Ms. Pappas noted that Mr. Palughi would have to have a permit to do the interior work.

Mr. Palughi said he would have to have an inspection to have the electricity turned back on. The inspector will not turn it on because he does not have a permit. Permitting would not give him a permit because they say it is out of compliance. Mr. Palughi said if he is not successful here, then he was not going to get a permit. Not unless he could show them there was no stove in there and therefore this was not a dwelling unit. If they did not agree, he said he would have to seek some type of judicial review or something.

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Mr. Cummings said he understood. He suggested Mr. Palughi take his plan and have it modified to reflect that this is a glorified bathhouse or guesthouse, with a functioning bathroom and a place to lay down and go to sleep. Show that there would be no functioning kitchen in there, and he did not think Mr. Palughi would have a problem when he went to get his permit.

Mr. Palombo said a note to that effect would be required on the permit.

Mr. Palughi said he understood and withdrew his application.

**OTHER BUSINESS:**

**Election of Officers**

A motion was made by Mr. Lee and seconded by Mr. Davitt to nominate Reid Cummings as Chairman and Steve Davitt as Vice-Chairman for the next year.

The vote was unanimous in favor of the motion.

There being no further business, the meeting was adjourned.

**New Member**

Mr. Cummings introduced and welcomed new Board member Sanford Davis.

Mr. Cummings expressed appreciation to Rev. Clarence Cooke for his years of service on the Board.

**APPROVED:**            May 2, 2005

/s/ Chairman of the Board

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