

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF OCTOBER 5, 2009 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
Vernon Coleman
Sanford Davis
Adam Metcalf
*supernumerary member

MEMBERS ABSENT

William Guess
Russell Riley*
J. Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Tony Felts, Planner I
Joanie Stiff-Love, Secretary II

OTHERS PRESENT

David Daughenbaugh, Urban Forestry
Butch Laner, Traffic Engineering

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

CALL TO ORDER:

Chairman Cummings noted the number of members present constituted a quorum. He added that for a motion to pass, it would require affirmation by all Board members present. The Chair then called the meeting to order.

HOLDOVERS:

#5553

(Case #ZON2009-01757)

Lane-Walding, LLC

2716 Dauphin Island Parkway

West side of Dauphin Island Parkway, 110'± North of Mackie Avenue

Use, Parking Ratio, Access and Maneuvering, Buffer, Landscaping, and Front and Side Yard Setbacks Variances to allow a Recreational Vehicle Park with legal non-conforming mobile homes to be phased out, with no designated parking, substandard accessways and maneuvering areas, no protection buffers for surrounding residential areas, and mobile homes and recreational vehicles within the front and side yard setbacks in an R-1, Single-Family Residential District; The Zoning Ordinance requires Planning Approval in a B-3, Community Business District, to allow a recreational vehicle park, at least one parking space per trailer or mobile home space, at least 24-foot wide access drives for access and maneuverability, protection buffers, landscaping area and tree plantings, and for structures to be located outside of any required yard.

The Chair stated the application had been recommended for denial and if there were those in attendance who wished to speak on the matter to do so at that time.

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The Chair noted there was no one who wished to speak on the matter and immediately went into deliberation.

Hearing no opposition or discussion, a motion was made by Mr. Cummings, with second by Mr. Coleman, to deny the application for the following reasons:

- 1) **staff's recommendations;**
- 2) **lack of new and/or additional information; and,**
- 3) **lack of support.**

The motion carried unanimously.

EXTENSIONS:

#5526/5484/5160

(Case #ZON2009-00382)

Krewe of Marry Mates (Paul Tidwell, Agent)

East side of South Washington Avenue, extending from Tennessee Street (unopened public right-of-way) and the Illinois Central Gulf Railroad right-of-way, to Kentucky Street.

Use Variance to allow the construction of two 200' x 90' float barns in a B-3, Community Business District; float barns are allowed with Planning Approval in a B-4, General Business District and allowed by right in an I-1, Light Industry District.

The Chair stated the application had been recommended for denial and if there were those in attendance who wished to speak on the matter to do so at that time.

The following people spoke on the matter:

- Bobby McBride, Rowe Surveying & Engineering Co, Inc.; and,
- Paul Tidwell, the applicant.

They made the following points in favor of approving the application:

- A. the application had been previously approved, and nothing physically had changed regarding the matter;
- B. due to the current economic times, membership in the organization had fallen and there were not the necessary funds available to accomplish the project; and,
- C. it was believed that over the next three (3) years, membership should increase, thus creating the necessary funds for the project.

The Chair stated that Board was charged with granting variances due to hardship associated with the property itself and that economic hardship was not to be a factor in determining a matter. He also reminded the applicant that variance extensions could only granted for a period of six (6) months at a time. He stated that if the matter needed to be extended three (3) years, it would be better for the applicant to wait until they were ready to begin the project then re-apply for the variance.

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The Chair asked if there were any others who needed to speak on the matter and noting none immediately went into deliberation.

Hearing no opposition or further discussion, a motion was made by Mr. Metcalf, with second by Mr. Coleman, to deny the matter due to the following:

- 1) variance extensions could only be granted for periods of six (6) months at a time; and,**
- 2) it was considered inefficient use of both the staff's time and the Board's time to review the matter every six (6) months without any guarantees of the project being acted on at that time.**

The motion carried unanimously.

PUBLIC HEARINGS:

#5565

(Case #ZON2009-02125)

Douglas B. Kearley

203 Woodlands Avenue

Northwest corner of Woodlands Avenue and Ashland Place Avenue

Side Yard Setback Variance to allow construction of an addition to a single family dwelling 15' from the side street property line in a R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of 20' side street yard setback in a R-1, single-family residential district.

The Chair stated the matter was recommended for approval and asked if there were those present who wished to speak on the matter to do so at that time.

Doug Kearley, architect for the project, stated he and his client were in agreement with the staff's recommended conditions.

The Chair asked if there were any others who needed to speak on the matter and noting none immediately went into deliberation.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Cummings, to approve the above referenced request for a side yard setback variance, subject to the following conditions:

- 1) contingent upon approval from Traffic Engineering; and,**
- 2) compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5566

(Case #ZON2009-02197)

Lee Wallace

252 Dilston Lane

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East side of Dilston Lane, 90'± South of Oakwood Lane

Side Yard Set back and Combined Side Yard Setback Variances to allow construction of an addition to a single-family dwelling 1.0' from the side property line, with combined side yards of 7.3' in a R-1, Single-Family Residential District; the Zoning Ordinance requires a 8' minimum side yard setback with a combined side yard total of 20' in an R-1, Single-Family Residential District.

The Chair stated the matter had been recommended for denial and asked if there were those present who wished to speak on the matter to do so at that time.

Landon Anderson, Williams Architects, spoke on behalf of the applicant stating the homeowners wished to have additional living space. Due to the construction and design of the home, the only option for an addition would be to use the open space above the current carport; however, to do so would infringe on the currently stated minimum side yard setback and combined side yard setback requirements.

Jim Frost, spoke on behalf of Mildred and Randall Hollinger, who live at 3759 Oakwood Lane, Mobile, AL, next to the property in question. He made the following points against the matter:

- A. the proposed addition would cast shadows onto the abutting property's backyard and rear of the house, thus resulting in the Hollinger's diminished enjoyment of their property;
- B. the proposed addition would mean there would only be 11 feet between the facades of the two houses; and,
- C. the presentation of a petition in opposition to the matter with 21 signatures opposing the matter.

The Chair asked if there were any others who needed to speak on the matter and noting none immediately went into deliberation.

Hearing no further opposition or discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to deny the above referenced request for both the side yard setback and the combined side yard setback variances due to failure to provide adequate justification for the matter.

The motion carried unanimously.

#5567

(Case #ZON2009-02204)

Gulf Coast Building Ventures

Southwest corner of Dauphin Street and South Water Street

Sign Variance to allow an off-premise double-sided freestanding sign on a separate building site adjacent to the business being advertised; the Zoning Ordinance requires all signs to be on the same building site to be considered an on-premise sign.

The Chair stated the matter had been recommended for denial and asked if there were those present who wished to speak on the matter to do so at that time.

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Clay Adams, Walcott, Adams, Verneuille Architects, One South School Street, Fairhope, AL, spoke on behalf of the applicant and made the following statements in favor of the matter:

- A. the property where the sign would be located is a small parcel adjacent to the bank's larger property and owned by the bank as well;
- B. there was no real space available for the sign on the larger parcel; and,
- C. due to time issues, seeking a variance had been considered the better option to the subdivision process.

Mr. Palombo stated some confusion regarding the issue. He noted how quickly the Planning Commission worked on such matters as subdivision due to their having two meetings a month as opposed to the Board's one, monthly meeting. He added that the matter would be "cleaning up a mess made some 10-13 years ago," if taken before the Planning Commission for the approval of a one lot subdivision. He said that after that approval, the sign would be a mute point as it would then be an on-site sign.

The Chair asked if there were any others who needed to speak on the matter and noting none immediately went into deliberation.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Cummings, to approve the above referenced request for a sign variance, subject to the following conditions:

- 1) submission of a 1-lot subdivision within 6-months (April 5, 2010);**
- 2) approval by the Architectural Review Board; and,**
- 3) compliance with all municipal codes and ordinances.**

The motion carried unanimously.

5568

(Case #ZON2009-02249)

Roger M. & Janice Setzler

216 Kingswood Court

South side of Kingswood Court extending to the East side of South University Boulevard

Side Yard, Combined Side Yard and Rear Yard Setback Variances to allow the construction of a detached two car garage 1.75' from the side property line and 0.7' from the rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of 8' from side and rear property lines and a combined total of the side yards to be 20' in a R-1, Single-Family Residential District.

The Chair stated the matter had been recommended for denial and asked if there were those present who wished to speak on the matter to do so at that time.

Janice Setzler, 216 Kingswood Court, Mobile, AL, spoke on her own behalf. She stated the following:

- A. they wished to put an additional, enclosed, detached garage on the property to be used primarily as storage; and,

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- B. in an effort to keep the yard clean, they had planned on using the brick retaining wall installed as part of the subdivision as the back wall of the proposed building which would result in being outside of the Zoning Ordinance requirements.

The Chair asked if they had discussed using the subdivision wall as the back wall of their private garage with the subdivision's Property Owners Association and Mrs. Setzler said no.

Mr. Palombo noted that there was a recorded easement in the area requested for the garage and asked if the applicant was aware of that, to which Mrs. Setzler said no.

The Chair advised the applicant that as there was a recorded easement, the proposed building could not be built where they had requested it.

Mrs. Setzler asked if they accepted a modified rear setback line, could the building then be built.

Mr. Palombo said if they were willing to modify the setback line, the staff would have no problem if the Board chose to approve the matter.

The Chair asked if there were any others who needed to speak on the matter and noting none immediately went into deliberation.

Hearing no opposition or further discussion, a motion was made by Mr. Metcalf, with second by Mr. Cummings, to approve the above referenced request for side yard, combined side yard and rear yard setback variances, with modification to a 2.5-foot rear setback, subject to the following conditions:

- 1) the provision of gutters and downspouts along the rear of addition;
and,**
- 2) compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5569

(Case #ZON2009-02261)

Gulf Coast Truck & Equipment Co., Inc.

2223 Halls Mill Road

East side of Halls Mill Road, 325' ± South of Pleasant Valley Road

Parking Surface and Front Landscape Variances to allow an aggregate parking surface for truck sales and service center and to reduce the percentage of frontage landscape in a B-3, Community Business District; the Zoning Ordinance requires all parking surfaces to be

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paved with asphalt, concrete, or an approved alternative paving surface, and requires at least 12% of the entire site to be landscaped with 60% of that being frontage landscape in a B-3, Community Business District.

The Chair stated the parking surface variance had been recommended for approval and the front landscape variance had been recommended for denial and asked if there were those present who wished to speak on the matter to do so at that time.

Thomas Latham, Clark, Geer, Latham and Associates, Inc., spoke on behalf of the applicant, saying:

- A. the proposed development is immediately adjacent to Eslava Creek;
- B. the majority of the back portion of the property is in a flood zone and not useable for the proposed large truck sales and service facility;
- C. because of its use as a large truck sales and service facility, concrete or asphalt surfacing of the location is not practical, especially in an area so prone to flooding; and,
- D. based upon the actual footage of usable space, the current landscaping requirement is too high, thus the need for a variance to the number of frontage trees needed.

The Chair asked if there were any others who needed to speak on the matter and noting none immediately went into deliberation.

Hearing no further opposition or discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalf to approve the above referenced requests, subject to the following conditions:

- 1) **revision of the frontage tree calculations to indicate 18 Live Oak trees required along the frontage;**
- 2) **provision of a 25' natural vegetative buffer along the East property line adjacent to Eslava Creek, to be maintained in a natural vegetative state with supplemental plantings as necessary to sufficiently screen the site from adjacent residential properties, to be coordinated with Urban Forestry;**
- 3) **submission of evidence that the barbed wire fencing was permitted, or the obtaining of an after-the-fact permit for such from the Director of Urban Development; and,**
- 4) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5570

(Case #ZON2009-02332)

Douglas Kearley

262 South Broad Street

Northwest corner of South Broad Street and Augusta Street

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Rear Yard Setback Variance for an accessory structure within 3' of the rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' rear yard setback in an R-1, Single-Family Residential District.

The Chair stated the rear yard setback variance had been recommended for approval with the modification to a 5' rear setback and asked if there were those present who wished to speak on the matter to do so at that time.

The following people spoke on the matter:

- Douglas Kearley, architect for the applicant; and,
- Thomas R. Host, 262 South Broad Street, Mobile, AL, the applicant.

They made the following points:

- A. reduced setbacks are common and allowed within the Historical District Overlay;
- B. the Live Oak currently on the property sits in such a location as to prevent building the building so it must be removed; and,
- C. application has been made to the Architectural Review Board for approval of the proposed building.

The Chair asked if there were any others who needed to speak on the matter and noting none immediately went into deliberation.

Mr. Daughenbaugh stated the Live Oak in question was a healthy tree of significant age. He added that though its removal by permit would be allowed, Urban Forestry would like to see the applicant required to plant another Live Oak of 3 caliper size somewhere on the property.

Hearing no further opposition or discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalf, to approve the above referenced request, subject to the following conditions:

- 1) **the provision of gutters and downspouts along the rear of the shed;**
- 2) **approval by the Architectural Review Board;**
- 3) **obtaining of a Tree Removal Permit from Urban Forestry for the Live Oak currently located in the area of the proposed shed;**
- 4) **the planting of a 3-inch minimum at DBH Live Oak Tree as a replacement for the removal of the existing Live Oak Tree; and,**
- 5) **compliance with all municipal codes and ordinances.**

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: September 13, 2010

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Chairman of the Board

jsl