

Due to the pandemic and pursuant to the proclamations by Governor Kay Ivey, the Mobile Board of Zoning Adjustment is using video technology for the May 4, 2020 meeting, which will be live streamed here (<https://www.youtube.com/channel/UCdLrEwf3ewSNmCNm21fVfNg>)

In order for any concerns to be considered by the Board of Zoning Adjustment you must email your concerns to planning@cityofmobile.org or they may be uploaded to the website via the portal [here](#). Comments must be entered by 2 PM on Sunday, May 3rd in order to be considered by the Board. <https://www.youtube.com/channel/UCdLrEwf3ewSNmCNm21fVfNg>

BOARD OF ZONING ADJUSTMENT

RESULTS AGENDA

May 4, 2020 - 2:00 P.M.

LIVE STREAM on YouTube

<https://www.youtube.com/channel/UCdLrEwf3ewSNmCNm21fVfNg>

I. CALL TO ORDER:

Chairman William Guess

II. ROLL CALL:

<u>X</u>	William L. Guess, Chairman
<u>X</u>	Sanford Davis, Vice-Chairman
	Vernon Coleman
<u>X</u>	Lewis Golden
<u>X</u>	Adam Metcalfe
<u>X</u>	Jeremy B. Milling
<u>X</u>	John Burroughs

Staff Attending: Doug Anderson, Jim Rossler, Shayla Beaco, Margaret Pappas, Bert Hoffman, Shameika Lee, John Strope (Dogwood Productions)

III. ADOPTION OF THE AGENDA:

Motion made by Adam Metcalfe and seconded by Jeremy Milling

IV. HOLDOVERS:

1. #6315
(Case #BOA-001213-2020)

L. Craig Roberts

257 North Jackson Street

(West side of North Jackson Street, 155'± North of State Street).

Front Yard Setback and Driveway Width Variances to allow a front yard setback of 22' for a dwelling, with a 15' wide driveway within the front yard setback in a T-4 Sub-District of the Downtown Development District; the Zoning Ordinance limits the front yard setback to a maximum of 12', and limits the driveway width to a maximum of 10' within the front yard setback in a T-4 Sub-District of the Downtown Development District.

Council District 2

Motion made by Adam Metcalfe and seconded by Jeremy Milling with the following findings of fact for Denial for the Driveway Width Variance:

- 1) Based on the fact that the hardships are self-imposed, and that the applicant could alter the proposed driveway to be compliant with little impact to the overall design;
- 2) No special conditions exist with the property itself, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the requested variance, as a minor revision would allow for a compliant driveway width.

The Board found the following findings of fact for Approval for the Front Yard Setback Variance:

- 1) Based on the fact that the hardships are not self-imposed, a compliant front yard setback would compromise the survival of an existing 24" live oak;
- 2) Special conditions exist with the property itself, in that there is an existing heritage tree in the required setback; and
- 3) The spirit of the chapter shall be observed, and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variance, as the Architectural Review Board has approved the plans as submitted.

The Approval is subject to the following conditions:

- 1) Obtain all required permits; and
- 2) Full compliance with all municipal codes and ordinances.

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2. **#6316**
(Case #BOA-001227-2020)
Joe Vinson Builders, Inc.
3568 Higgins Road

(East side of Higgins Road, 270'± South of its North terminus).

Side Yard Setback and Combined Side Yard Setback Variances to allow one HVAC system and one HVAC system platform higher than 3' above grade within the required side yard setbacks resulting in reduced combined side yard setbacks in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard setback of 8' and a minimum combined side yard setback of 20' for mechanical equipment higher than 3' above grade in an R-1, Single-Family Residential District.

Council District 4

Motion made by Jeremy Milling and seconded by John Burroughs with the following findings of fact for approval:

- 1) Approving the variance requests will not be contrary to the public interest in that similar variances have been approved in flood zones along Dog River;
- 2) Special conditions appear to exist, primarily the requirements for higher mechanical equipment elevations within flood zones, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that the location of the mechanical equipment is more accessible for maintenance and is not intrusive onto adjacent properties.

3. **#6317**
(Case #BOA-001228-2020)
Casey Pipes
1500 Government Street

(North side of Government Street, 300'± East of South Catherine Street, extending to the East side of Catherine Street, 175'± North of Government Street).

Use Variance to allow a liquor store in an LB-2, Limited Neighborhood Business District; the Zoning Ordinance does not allow a liquor store in an LB-2, Limited Neighborhood Business District.

Council District 2

Motion made by Jeremy Milling and seconded by Sanford Davis with the following findings of fact for approval.

- 1) The variance will not be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the

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chapter will result in unnecessary hardship; and

- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

4. #6318
(Case #BOA-001229-2020)

David Shumer

5461 Kooiman Road

(South side of Kooiman Road, 430'± East of US Highway 90 West).

Residential Buffer Variance to waive the construction of a buffer privacy fence along adjacent residentially-zoned properties for a memory care facility in a B-1, Buffer Business District; the Zoning Ordinance requires a residential buffer privacy fence along adjacent residentially-zoned properties for a commercial development in a B-1, Buffer Business District.

Council District 4

Motion made by Jeremy Milling and seconded by Adam Metcalfe with the following findings of fact for approval:

- 1) Approving the variance will not be contrary to the public interest as the properties which stand to be most affected by the request are either undeveloped or utilized for agricultural uses;
- 2) Special conditions were illustrated such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the surrounding area is primarily undeveloped, wooded, or agriculturally used land.

The approval is subject to the following conditions:

- 1) Provision of a compliant off-street parking buffer along the appropriate portion of the Western property line where the proposed parking area abuts the residentially zoned property to the West, at such time said property to west is occupied residentially; and
- 2) Full compliance with all other municipal codes and ordinances.

V. EXTENSIONS:

5. #6280
(Case #BOA-001031-2019)
Mobile Storm Volleyball Club

65 Sidney Phillips Drive

(Southwest corner of Werkland Street and Sidney Phillips Drive).

Use Variance to allow a volleyball club in an I-1, Light Industrial District; the Zoning Ordinance does not allow sports and recreation clubs to operate in an I-1, Light Industrial District.

Council District 1

Motion made by Lewis Golden and seconded by Jeremy Milling for Approval

6. **#6281**

(Case #BOA-001032-2019)

Mobile Storm Volleyball Club

65 Sidney Phillips Drive

(Southwest corner of Werkland Street and Sidney Phillips Drive).

Use Variance to allow a personal training facility in an I-1, Light Industrial District; the Zoning Ordinance does not allow personal training facilities in an I-1, Light Industrial District.

Council District 1

Motion made by Lewis Golden and seconded by Jeremy Milling for Approval.

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VI. PUBLIC HEARINGS:

7. **#6319**

(Case #BOA-001231-2020)

Bret Webb

3721 The Cedars

(Southeast corner of The Cedars and Tuthill Lane).

Setback Variance to allow the construction of a 6-foot privacy fence within a required front yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance limits fences within a required front yard to a maximum height of three (3) feet in an R-1, Single-Family Residential District.

Council District 7

Motion made by Adam Metcalfe and seconded by Lewis Golden with the following findings of fact for approval:

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- 1) Granting the variance will not be contrary to the public interest in that there are other fences and walls exceeding three feet in height along street property lines within the vicinity;
- 2) Special conditions and hardships do exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as there is

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- a need to provide for safety, security, and privacy for a family; and
- 3) The spirit of the chapter shall be observed, and substantial justice shall be done to the surrounding neighborhood by granting the variance because similar variances have been approved in the area.

The approval is subject to the following conditions:

- 1) The fence is to be setback 10 feet from the front property line;
- 2) The obtaining of necessary permits prior to construction; and
- 3) Full compliance with all other municipal codes and ordinances.

8. #6320/6264

(Case #BOA-001239-2020)

The Mitchell Company, LLC (Christopher Sylvester)

1004 Wildwood Avenue

(West side of Wildwood Avenue, 61'± South of the intersection of Chandler Street and Wildwood Avenue).

Lot area and Lot Width Variances to allow a lot less than 7,200 square feet and lot widths less than 60-feet in an R-1, Single-Family Residential District; the Zoning Ordinance requires new lots for residential use to be at least 60-feet wide at the building setback line and requires a minimum lot area of 7,200 square feet in an R-1, Single-Family Residential District.

Council District 6

Motion made by Lewis Golden and seconded by Jeremy Milling with the following findings of fact for approval

- 1) Approving the variance will not be contrary to the public interest;
- 2) Special conditions were illustrated such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed, and substantial justice shall be done to the surrounding neighborhood by granting the variance.

The approval is subject to the following conditions:

- 1) Full compliance with all other municipal codes and ordinances.

9. #6321

(Case #BOA-001242-2020)

Ranita Smith

103 Michael Donald Avenue

(West side of Michael Donald Avenue, 63'± North of the intersection of Michael Donald Avenue and Old Shell Road).

Administrative Appeal of a staff decision granting “reasonable accommodation” to

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allow up to 8 unrelated people to live in a recovery residence as a family.
Council District 2

The appeal failed due to lack of five affirmative votes.

10. #6322

(Case #BOA-001250-2020)

G. Allen Garstecki, Jr. and Kara M. Garstecki

206 Carmel Drive East

(East side of Carmel Drive East, 170'± North of the intersection of Carmel Drive East and Bexley Lane).

Setback Variance to allow construction of a covered patio within the required rear yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' rear yard setback for structures in an R-1, Single-Family Residential District.

Council District 7

As requested by the applicant, a motion was made by Adam Metcalfe and seconded by John Burroughs to holdover this application over until the Board's June 1st meeting.

11. #6323

(Case #BOA-001251-2020)

Ahearn Construction (Matthew Ahearn)

900 Saint Anthony Street

(Northwest corner of Saint Anthony Street and North Broad Street).

Parking, Landscape, and Tree Planting Variances to allow a reduced number of parking spaces, waive commercial landscaping requirements, and a reduced number of required tree plantings in a B-4, General Business District; the Zoning Ordinance requires compliant parking, landscaping, and tree planting for new commercial development in a B-4, General Business District.

Council District 2

As requested by the applicant, a motion was made by Adam Metcalfe and seconded by Lewis Golden to holdover this application over until the Board's June 1st meeting:

12. #6324

(Case #BOA-001258-2020)

John G. Walton Construction Co., Inc. and City of Mobile

Baltimore Street

(South side of Baltimore Street extending to the North side of Heustis Street, 338'± West of the intersection of Gayle Street and Baltimore Street).

Use, Surfacing, and Tree and Landscaping Variances to allow the temporary use of the property for an office trailer and construction lay-down yard, to waive tree planting and landscape requirements, and to allow the use of gravel as an alternative parking surface in an R-1, Single-Family Residential District; the Zoning Ordinance requires compliant tree planting and landscaping for all new commercial development, limits properties in R-1 districts to residential use only, and does not allow gravel as an alternative parking surface in an R-1, Single-Family Residential District.

Council District 3

Motion made by Adam Metcalfe and seconded by Jeremy Milling with the following findings of fact for approval:

- 1) Approving the variance will not be contrary to the public interest in that it will allow a contractor to use a currently vacant property to perform a project for the City of Mobile to improve infrastructure for local residents;
- 2) Special conditions exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship in that there are a limited number of alternative sites available that are close to the work to be performed, and large enough to accommodate storage of equipment and materials; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the site will only require variances temporarily, and will then be returned to its existing state.

Therefore, the Use, Surfacing, and Tree and Landscaping Variance requests are recommended for approval, subject to the following conditions:

- 1) Approval is valid for an initial period of two-years, with extensions required if additional time is required;
- 2) Hours of operation a limited to between 7 AM and 5 PM;
- 3) Within 60 days of completion of the associated project, the site will be returned to its current status, to include: removal of the project trailer, removal of all gravel or other surfacing materials used, removal of any chain link fence, placing of sod, etc;
- 4) Revision of the site plan to indicate what surfacing material will be used for the laydown yard;
- 5) Revision of the site plan to illustrate a compliant residential buffer abutting residential properties;
- 6) Revision of the site plan to comply with accessible parking spaces and associated surfacing, as appropriate and if required;
- 7) subject to the Engineering comments: *[1. Submit and receive a Tier 2 Land Disturbance Permit for the proposed site development before beginning any site work. 2. Submit a ROW Permit (City of Mobile) for any work within the public ROW. Aggregate surfacing is NOT allowed to be placed within the public ROW.]*;
- 8) subject to the Urban Forestry comments: *[Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree*

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removal permit.];

- 9) subject to the Fire Department comments: *[All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code).];*
- 10) submission to and approval by Planning and Zoning of two (2) copies of a revised site plan prior to any request for land disturbance or building permits; and
- 11) full compliance with all municipal codes and ordinances.

VII. OTHER BUSINESS: