

**BOARD OF ZONING ADJUSTMENT**

**RESULTS AGENDA**

**JULY 12, 2021**

**AUDITORIUM, GOVERNMENT PLAZA**

**I. CALL TO ORDER:**

**Chairman William Guess**

**II. ROLL CALL**

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

**Staff: Marie York, Doug Anderson, Logan Anderson, Victoria Burch, and George Davis**

**III. ADOPTION OF THE AGENDA:**

Motion to adopt by Jeremy Milling. Second by Sanford Davis. **Adopted.**

**IV. HOLDOVERS:**

**1. #6389/5829**

**(Case #BOA-001608-2021)**

**The CORE Project, Inc.**

**7125 Hitt Road**

**(Southwest corner of Hitt Road and Cody Road South).**

**Use Variance to allow a school for autistic children at an existing church in an R-1, Single-Family Residential District; the Zoning Ordinance requires a B-1, Buffer Business District, with Planning Approval, for a school for autistic children.**

**Council District 6**

Motion to approve by Jeremy Milling. Second by Vernon Coleman. **Approved.**

**After discussion, the Board determined the following findings of fact for Approval:**

- 1) The variance will not be contrary to the public interest;**
- 2) Special conditions do appear to exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and**

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- 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.**

**V. PUBLIC HEARINGS:**

**2. #6395**

**(Case #BOA-001624-2021)**

**Amy Cramer**

**4501 Park Road**

(East side of Park Road at the East terminus of Canal Road).

**Side Yard Setback Variance to allow an air conditioning unit over three (3) feet high within a required side yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires side yard setback compliance for all structures three (3) feet and higher in an R-1, Single-Family Residential District.**

Council District 3

Motion to approve by John Burroughs. Second by Vernon Coleman. **Approved.**

**After discussion, the Board determined the following findings of fact for Approval:**

- 1) **Approving the variance request 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.**

**The approval is subject to the following conditions:**

- 1) **Compliance with the Engineering comments: *[If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit (Single Family Residential Affidavit) be submitted through Central Permitting. 2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way. 3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and the Rules For Erosion and Sedimentation Control and Storm Water Runoff***

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***Control 4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.]; and***

**2) Full compliance with all municipal coded and ordinances.**

**3. #6396/583**

**(Case #BOA-001652-2021)**

**Garden Design Solutions, Inc.**

**1004 Government Street**

**(West side of Common Street, extending from Government Street to Conti Street).**

**Front Yard, Side Street Side Yard, and Rear Street Rear Yard Setback Variances to allow a wall and fence over three (3) feet in height within the required setbacks in a B-1, Buffer Business District; the Zoning Ordinance requires front yard, side street side yard, and rear street rear yard setback compliance for walls and fences three (3) feet high or higher in a B-1, Buffer Business District.**

**Council District 2**

**Motion to approve by Vernon Coleman. Second by Jeremy Milling. **Approved.****

**After discussion, the Board determined the following findings of fact for Approval:**

- 1) Approving the variance request will not be contrary to the public interest due to the fact that similar structures are not uncommon within this part of the City;**
- 2) Special conditions exist, such as the fact that other properties within older historic districts have fences and walls close to or on the side street and rear street property lines, 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 applicant and the surrounding neighborhood by granting the variance because the request is similar to and not uncommon for other properties within the Old Dauphin Way Historic District.**

**The approval is subject to the following conditions:**

- 1) The obtaining of the proper permit(s) for the construction of the walls;**
- 2) Subject to the Engineering comments: *[If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through Central Permitting. 2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way. 3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 4. Applicant agrees***

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- to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.];*
- 3) **Subject to the Traffic Engineering comments:** *(No adverse traffic impacts anticipated by this variance request. The taller wall is existing at the corner of Conti Street and Common Street, which is an all-way stop controlled intersection. The proposed gate near along the frontage area near the intersection of Government Street and Common Street is set back from the intersection and not a sight obstruction. The unusable curb cuts on Common Street and Conti Street should be removed and curbing restored to match the existing curb.);* and
  - 4) **Full compliance with all municipal codes and ordinances.**

**The Board determined that the Front Yard Setback Variance request is not needed.**

**4. #6397**

**(Case #BOA-001653-2021)**

**Byrd Surveying, Inc.**

**4575 Higgins Road**

**(South side of Higgins Road, 370'± East of Cypress Business Park Drive).**

**Surfacing and Residential Buffer Variance requests to allow gravel parking and maneuvering surfacing, and no residential buffer at a boat storage facility in a B-3, Community Business District; the Zoning Ordinance requires parking and maneuvering surfacing to be asphalt, concrete, or an approved alternative paving surface, and requires a residential buffer to adjacent residentially zoned properties in a B-3, Community Business District.**

**Council District 4**

**Motion to approve by John Burroughs. Second by Sanford Davis. **Approved.****

**After discussion, the Board determined the following findings of fact for Approval:**

- 1) **Approving the variance will not be contrary to the public interest in that several other sites in the area have been granted similar variances;**
- 2) **Special conditions exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship in that the adjacent residentially zoned property has been utilized commercially for a substantial amount of time; and,**
- 3) **The spirit of the chapter shall be observed, and substantial justice shall be done to the surrounding neighborhood by granting the variance in that a similar variance was granted for sites nearby.**

**The approval is subject to the following conditions:**

- 1) **Revision of the site plan to clearly indicate the gate to the West of the building is an entry, and the gate on the East of the building is an exit;**

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- 2) Revision of the site plan to illustrate bumper stops for each boat storage space;
- 3) Obtain all necessary permits, including a barbed wire permit approved by the Executive Director of Build Mobile;
- 4) Full compliance with City of Mobile stormwater management regulations;
- 5) Subject to the Engineering comments: *(If the aggregate surfacing is approved for use the applicant will need to have the following conditions met: 1. Submit and receive a Land Disturbance Permit through Central Permitting for the proposed site development. 2. Aggregate surfacing will NOT be allowed within the public ROW. 3. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).);*
- 6) Placement of Traffic Engineering comments on the site plan: *(No adverse traffic impacts anticipated by this surface variance request. The site should be limited to the existing curb cuts to Higgins Road. The existing asphalt driveways that remain are from a former residential home. They are in disrepair will require improvement for a commercial development.);*
- 7) 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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.);*
- 8) 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). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.);*
- 9) Submission to and approval by Planning and Zoning of two (2) copies of a revised site plan (hard copy and .pdf) prior to any request for land disturbance or building permits; and
- 10) Full compliance with all municipal codes and ordinances.

5. #6398

(Case #BOA-001654-2021)

**Barton & Shumer Engineering, LLC**

**2600 First Avenue**

(Northwest corner of First Avenue and Jessie Street).

**Use, Side Street Side Yard Setback, Dumpster Setback, Residential Buffer, Off-Street Loading, Parking Lot Screening and Tree Planting Variances to allow a grocery/convenience store with reduced side street side yard and dumpster setbacks, no on-site residential buffer, no off-street loading area, no parking lot screening, and no tree plantings in an R-1, Single-Family Residential District; the Zoning Ordinance**

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**does not allow a grocery/convenience store in an R-1, Single-Family Residential District, and requires compliance with side street side yard setbacks, dumpster setbacks, residential buffers, off-street loading, parking lot screening and tree planting requirements for commercial uses.**

Council District 1

Motion to approve by Sanford Davis. Second by Vernon Coleman. **Approved.**

**After discussion, the Board determined the following findings of fact for Approval:**

- 1) The variance will not be contrary to the public interest;**
- 2) Special conditions do appear to exist, 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 shall be done to the applicant and the surrounding neighborhood by granting the requested variance.**

**The approval is subject to the following conditions:**

- 1) The dumpster is to be serviced during regular business hours; and**
  - 2) Full compliance with all municipal codes and ordinances.**
- 6. #6399/6281/6280**  
**(Case #BOA-001656-2021)**  
**Zito Russell Architects, PC**  
**65 Sidney Phillips Drive**  
(Southwest corner of Werkland Street and Sidney Phillips Drive).  
**Use and Parking Ratio Variances to allow a volleyball club with less than required parking spaces in an I-1, Light Industry District; the Zoning Ordinance does not allow sports and recreation clubs to operate in, and requires compliant parking, in an I-1, Light Industry District.**  
Council District 1

Motion to approve by Vernon Coleman. Second by Sanford Davis. **Approved.**

**After discussion, the Board determined the following findings of fact for Approval for Suite 140:**

- 1) Granting the variance will not be contrary to the public interest, in that the use would be the same as was previously approved for the site;**
- 2) Special conditions exist with the property itself, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship if the organization is required to relocate to another facility, if such a facility with specific space requirements exists or is available; and**

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- 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 applicant has taken steps to address the Building, Electrical, Plumbing, Mechanical and Fire Code issues.**

**The Approval is subject to the following conditions:**

- 1) **Subject to the Traffic Engineering comments: *(The parking estimates are for use of the volleyball space as a practice facility only. If tournament events are hosted at the facility, the required parking calculations may not be ample. Those type events typically occur on the weekend when other tenants may be closed. The former loading areas shown as unmarked parking on the site plan should also be converted to proper parking areas to define the available site parking.)*;**
- 2) **Completion of the permitting and construction processes necessary to bring the structure into compliance with the applicable Building, Electrical, Plumbing, Mechanical and Fire Codes for the use;**
- 3) **Obtaining of sign permits for any proposed signage;**
- 4) **Securing the necessary business license(s); and**
- 5) **Full compliance with all municipal codes and ordinances.**

**7. #6400**

**(Case #BOA-001659-2021)**

**Jarrold White**

**1069 State Street**

**(South side of State Street, 120'± East of Kennedy Street).**

**Side Yard Setback, Combined Side Yards Setback, and Accessory Structure Variances to allow reduced side yard and combined side yards setbacks, and to allow an accessory structure to be built on a vacant site prior to constructing a dwelling in an R-2, Two-Family Residential District; the Zoning Ordinance requires compliance with side yard and combined side yard setbacks, and does not allow an accessory structure to be constructed on a vacant site prior to constructing a dwelling in an R-2, Two-Family Residential District.**

**Council District 2**

**Motion to approve by Jeremy Milling. Second by Sanford Davis. **Approved/Denied.****

**After discussion, the Board determined the following findings of fact for Approval for the Setback Variances:**

- 1) **The variance will not be contrary to the public interest;**
- 2) **Special conditions do appear to exist, 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 shall be done to the applicant and the surrounding neighborhood by granting the requested**

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variance.

**The Approval is subject to the following conditions:**

- 1) No separate utilities are allowed for the accessory structure; and**
- 2) Full compliance with all municipal codes and ordinances.**

**After discussion, the Board determined the following findings of fact for Denial for the Accessory Structure Variance:**

- 1) Approving the variance request will be contrary to the public interest due to the fact that similar variances have not been approved within the vicinity of this site;**
- 2) Special conditions do not appear to exist, primarily a necessity for reduced setbacks, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and**
- 3) That the spirit of the chapter shall not be observed, and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that a precedent could be established by allowing the accessory structure to be constructed prior to the construction of the primary structure on the site.**

**VI. OTHER BUSINESS:**