**BOARD OF ZONING ADJUSTMENT**

**RESULTS AGENDA**

**JUNE 7, 2021**

**AUDITORIUM, GOVERNMENT PLAZA**

**I. CALL TO ORDER:**

 **Chairman William Guess**

**II. ROLL CALL**

|  |  |
| --- | --- |
| **x** | William L. Guess, Chairman |
| **x** | Sanford Davis, Vice-Chairman |
| **x** | Vernon Coleman |
| **x** | Lewis Golden |
| **x** | Adam Metcalfe |
| **x** | Jeremy B. Milling |
|  | John Burroughs |

**Staff:** Mary Beth Bergin, Victoria Burch, Marie York, Bert Hoffman

**III. ADOPTION OF THE AGENDA:**

Motion to adopt by Sanford Davis. Second by Vernon Coleman. **Adopted**.

**IV. EXTENSIONS:**

* + - 1. **#6348**

**(Case #BOA-001388-2020)**

**Merrill Pratt Thomas, Jr.**

**4458 Emperor Drive**

(North side of Emperor Drive, 240’± West of Schwaemmle Drive).

**Side Yard Setback Variance to allow a carport/storage structure less than 8’ from a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least an 8’ side yard setback for structures in an R-1, Single-Family Residential District.**

Council District 5

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

**After discussion, the Board Approved the request for a six (6)-month extension of the Variance approval.**

**V. PUBLIC HEARINGS:**

**2. #6384
(Case #BOA-001594-2021)**

**Scott Services Company**

**64 North Royal Street**

(Southeast corner of North Royal Street and St. Michael Street).

**Sign Variance to allow two individual store front wall signs for a business in a T-6, Mixed-Use of High Intensity Sub-District of the Downtown Development District; the Zoning Ordinance limits businesses to one individual store front wall sign in a T-6, Mixed-Use of High Intensity Sub-District of the Downtown Development District.**

Council District 2

Motion to approve by Adam Metcalfe. Second by Jeremy Milling. **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 it will allow for signage replacement smaller in size than that existing on the subject site;**
2. **Special conditions (the double street frontage of the subject site) exist 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, the surrounding neighborhood, and the public in general by granting the variance because it will provide for easy recognition of a business name change.**

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

1. **signage to comply with the types and sizes as submitted with this application;**
2. **obtaining of the necessary sign permits for all signage; and**
3. **full compliance with all other municipal codes and ordinances.**

**3. #6385**

**(Case #BOA-001599-2021)**

**Chelsea McCormick**

**52 Westwood Street**

(West side of Westwood Street, 20’+ South of the West terminus of Homewood Street).

**Use Variance to allow a home occupation catering/charcuterie business to operate in a detached building in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow a catering/charcuterie business as a home occupation, and home occupations cannot operate in a detached building in an R-1, Single-Family Residential District.**

Council District 1

Motion to holdover for 60 days by Jeremy Milling. Second by Sanford Davis. **Heldover**.

**After discussion, the Board heldover the application, at the applicant’s request, to the August 2, 2021 meeting to allow the applicant to meet with neighbors.**

**It is also advised that the applicant schedule a Pre-Development Meeting through the Permitting office, to gain an understanding of all of the other codes and ordinances that will apply with if the zoning variance request is approved. Please contact Frank Palombo at** **palombo@cityofmobile.org** **to request a meeting.**

**4. #6386/2920/1658**

**(Case #BOA-001605-2021)**

**Cummings Architecture Corp.**

**1501 Old Shell Road**

(Southeast corner of Old Shell Road and North Catherine Street).

**Sign Variance to allow a second freestanding monument sign for a single-tenant church school site in an R-1, Single-Family Residential District; the Zoning Ordinance limits a single-tenant church school site to one freestanding monument sign in an R-1, Single-Family Residential District.**

Council District 2

Motion to approve by Jeremy Milling. Second by Adam Metcalfe. **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 it will not contribute to signage clutter within a historic district or on the subject site;**
2. **Special conditions (the over-all size and configuration of the subject site) exist 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 surrounding neighborhood by granting the variance because it will allow for site identification from two different and very distant signage points.**

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

1. **obtaining the necessary sign permit for the sign; and**
2. **full compliance with all other municipal codes and ordinances.**

**5. #6387/2625**

**(Case #BOA-001606-2021)**

**H. O. Weaver & Sons, Inc.**

**1101 Athey Road**

(West side of Athey Road, 160’+ North of Zeigler Boulevard).

**Use, Surfacing and Tree and Landscaping Variances to allow a temporary construction lay-down yard with gravel surfacing and no landscaping or tree plantings in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow a temporary construction lay-down yard with gravel surfacing and no landscaping or tree plantings in a B-2, Neighborhood Business District.**

Council District 7

Motion to approve by Vernon Coleman. Second by Adam Metcalfe. **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 it will allow a contractor to use a currently vacant property to perform a project for the City of Mobile to improve infrastructure for 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.**

**The approval is 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 all gravel or other surfacing materials used, removal of any chain link fence, placing of sod, etc.;**
4. **Revision of the site plan to illustrate a compliant residential buffer abutting residential properties;**
5. **Placement of a note on the site plan stating that the gate will remain open during hours of operation**
6. **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).)*;**
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.**

**6.** #6388

**(Case #BOA-001607-2021)**

**Wrico Signs, Inc. (for Delaney Development)**

**3698, 3700, 3702 and 3704 Airport Boulevard**

(Northwest corner of Airport Boulevard and Yester Oaks Drive).

**Sign Variance to allow the construction of a new freestanding pylon sign while allowing an existing nonconforming freestanding pylon sign with off-premise advertising to remain on a multi-tenant site in a B-3, Community Business District; the Zoning Ordinance requires compliance and an existing nonconforming freestanding pylon sign must be removed if a new freestanding pylon sign is constructed on a multi-tenant site in a B-3, Community Business District.**

Council District 5

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

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

 **1) Based on the fact that the existing nonconforming sign has been located on the site since prior to the adoption of the sign regulation provisions, the variance will not be contrary to the public interest;**

 **2) This special condition (the sign could technically be considered legal nonconforming) exists 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 in that the allowance of the sign to remain would not seem contrary to the sign regulation provisions.**

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

 **1) obtaining of the necessary sign permit for the proposed sign;**

 **2) no structural improvements are to be made to the existing off-premise apartment sign or structure; and**

 **3) full compliance with all other municipal codes and ordinances.**

**7. #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 holdover by William Guess. Second by Sanford Davis. **Heldover**.

**After discussion, the Board Heldover the application to the July 12, 2021, meeting, with additional information submitted by June 28th to address the following:**

 **1) Provide the scope of proposed improvements to the parking area; and,**

 **2) Coordinate with Building and Fire Code Officials to determine the required improvements for the proposed use of the site.**

**It is advised that the applicant schedule a Pre-Development Meeting through the Permitting office, to gain an understanding of all the other codes and ordinances that may apply with if the zoning variance request is approved, to address item # 2 above. Please contact Frank Palombo at** **palombo@cityofmobile.org** **to request a meeting.**

**8. #6390**

**(Case #BOA-001613-2021)**

**Cory Bronenkamp**

**158 Hemley Avenue**

(East side of Hemley Avenue, 174’+ North of Haas Avenue)

**Use Variance to allow a second dwelling on a residential site in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least an R-2, Two-Family Residential District, to allow two dwellings on a residential site.**

Council District 1

Motion to approve by Adam Metcalfe. Second by Vernon Coleman. **Approved**.

William Guess opposed

**After discussion, the Board determined 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 the 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.**

**9. #6391/6371**

**(Case #BOA-001619-2021)**

**VCP Seamans, LLC (Asarisi & Associates, LLC, Agent)**

**350 St. Joseph Street**

(Northeast corner of Adams Street and St Joseph Street, extending to North Water Street).

**Fence Height Variance to allow a six-foot high fence along the front property line and side lot lines beyond a building façade in a T-5.1, Mixed-Use of Medium Intensity Sub-District of the Downtown Development District; the Zoning Ordinance limits fences to no more than four feet high along a front property line and side lot lines beyond a building façade in a T-5.1, Mixed-Use of Medium Intensity Sub-District of the Downtown Development District.**

Council District 2

Motion to approve by Adam Metcalfe. Second by Sanford Davis. **Approved**.

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

1. **The variance will not be contrary to the public interest in that the fence will not cause line-of-sight traffic concerns;**
2. **Special conditions do 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 surrounding neighborhood by granting the variance by allowing a taller fence for increased security.**

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

1. **Obtain after-the-fact fence permits;**
2. **Submission of revised “as-built” plans for the associated building permits; and**
3. **Full compliance with all municipal codes and ordinances.**

**10. #6392/2014/1960**

**(Case #BOA-001620-2021)**

**Rascals Bar and Lounge LLC**

**2156 Costarides Street**

(Northwest corner of Costarides Street and Driver Street).

**Off-Site Parking Variance to allow all parking to be off-site for a 6,000 square-foot lounge in a B-2, Neighborhood Business District; the Zoning Ordinance requires 60 on-site parking spaces for a 6,000 square-foot lounge in a B-2, Neighborhood Business District.**

Council District 1

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

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

1. **approving the variance will not be contrary to the public interest as the off-site parking location has previously been used as such;**
2. **special conditions do exist such that the allowance of off-site parking would be consistent with the previous history of the subject site; 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 use would be compatible to the site’s previous use.**

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

1. **submittal to and approval by Planning and Zoning of a site plan indicating as many compliant parking spaces as possible, and delineated by bumper stops, with compliant maneuvering areas;**
2. **compliance with the Engineering comments: *(If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. 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. 2. A Land Disturbance Permit should be submitted for any improvements.)*;**
3. **any required Building Code Inspections and Fire Department Inspections are to be conducted prior to the issuance of a Zoning Certificate for the lounge use; and**

**4) full compliance with all other municipal codes and ordinances.**

**11. #6393**

**(Case #BOA-001621-2021)**

**Pendarius Kidd**

**2810 Harper Avenue**

(North side of Harper Avenue, 176’+ East of Butler Street).

**Use, Surfacing, Parking Ratio, Landscaping and Tree Planting, and Residential Buffering Variances to allow a hot dog shop without paved parking, no designated parking spaces, no landscaping or tree plantings, and no residential buffering in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow hot dog shops in R-1, Single-Family Residential Districts, and requires compliant parking surfaces, sufficient parking spaces, full compliance with landscaping and tree planting ratios, and compliant residential buffering.**

Council District 1

Motion to holdover for 60 days by Vernon Coleman. Second by Sanford Davis. **Heldover**.

**After discussion, the Board heldover the application, at the applicant’s request, to the August 2, 2021 meeting to allow the applicant to meet with neighbors.**

**It is also advised that the applicant schedule a Pre-Development Meeting through the Permitting office, to gain an understanding of all the other codes and ordinances that will apply with if the zoning variance request is approved. Please contact Frank Palombo at** **palombo@cityofmobile.org** **to request a meeting.**

**12. #6394/2013**

**(Case #BOA-001622-2021)**

**Richard Noblet**

**133 Eaton Square**

(Southwest corner of Old Shell Road and Eaton Square).

**Side Street Side Yard Setback Variance to allow the construction of a garage less than 25 feet from a side street side yard property line in an R-3, Multi-Family Residential District; the Zoning Ordinance requires a 25-foot side street side yard setback in an R-3, Multi-Family Residential District.**

Council District 5

Motion to approve by Adam Metcalfe. 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 due to the fact that similar variance requests have been approved within the vicinity of this site;**
2. **Special conditions appear to exist, primarily the limited area on the site available for the construction of the proposed garage, 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 be observed, and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that it will allow a garage harmonious with the existing dwelling.**

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

1. **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 – Single Family Residential Affidavit be submitted through Central Permitting. 2. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.)***
2. **the obtaining of the proper permit(s) for the construction of the structure; and full**
3. **compliance with all other municipal codes and ordinances.**

**VI. OTHER BUSINESS:**

* **Adoption of the 2021-2022 meeting and deadline schedule**

Motion to adopt by Adam Metcalfe. Second by Sandford Davis. **Adopted**.