

BOARD OF ZONING ADJUSTMENT

RESULTS AGENDA

March 6, 2023 - 2:00 P.M.

Auditorium, Government Plaza

I. CALL TO ORDER:

Chairman William Guess

II. ROLL CALL

X	William L. Guess, Chairman
X	Sanford Davis, Vice-Chairman
X	Lewis Golden
	Adam Metcalfe
X	Jeremy B. Milling
X	Chris Carroll
X	Gregory Morris, Sr.

Staff: Doug Anderson, Margaret Pappas, Marie York, Bert Hoffman, Shayla Beaco, Jackson Taylor, Victoria Burch, George Davis, Grace Toledo

III. ADOPTION OF THE AGENDA:

Motion made by Jeremy Milling, seconded by Gregory Morris

IV. HOLDOVERS:

1. #6481

(Case #BOA-002243-2022)

Robert K. Moore and Jacqueline L. Moore

4660 Airport Boulevard

(North side of Airport Boulevard, 200'± West of South University Boulevard).

Parking Ratio Variance to allow reduced parking for a lounge in a B-2, Neighborhood Business District; the Zoning Ordinance requires full compliance with the parking requirements for a lounge in a B-2, Neighborhood Business District.

Council District 6

After discussion, the Board determined the following Findings of Fact for Denial:

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- 1) **Approving the variance will be contrary to the public interest in that patrons coming to the subject site will most likely utilize parking on adjacent property, whose use has not been authorized by the owner of the adjacent property;**
- 2) **Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship to residents in the surrounding area; and,**
- 3) **The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the Variance.**

2. #6489/6258/4827/4826/4549/2439

(Case #BOA-002275-2022)

Stephen M. Griffith (Gerald Byrd, Agent)

1260 Government Street

(North side of Government Street, 80'± East of South Ann Street).

Use Variance to allow truck leasing in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow truck leasing in a B-2, Neighborhood Business District.

Council District 2

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 do exist in such a way 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) **The site is limited to no more than three (3) trucks total on site at any time;**
- 2) **Provision of either a six (6)-foot high privacy fence or evergreen hedge (six-feet tall at time of planting and of sufficient density to screen the view) along the East property line, subject to Traffic Engineering review.**

3. #6494/4763

(Case #BOA-002347-2023)

Michael Cartoski

401 Civic Center Drive

(Northwest corner of Canal Street and South Claiborne Street).

Variations from certain Site and Building Design and Material requirements of the Downtown Development District to allow construction of a new building; specifically variations from Building Setback, Primary Entrance Location, Driveway Width, Dumpster Enclosure Materials, Building Exterior Materials, Streetscreen Height,

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Streetscreen Access Width, Wall Material, Fence Screening, Ground Floor Transparency, Loading Dock Width and Window Shading requirements, in a T-5.2 Mixed-Use Sub-District of the Downtown Development District. The Zoning Ordinance requires full compliance with all of the Site and Building Design and Material requirements in a T-5.2 Mixed-Use Sub-District of the Downtown Development District.

Council District 2

Due to revisions proposed by the applicant and presented at the meeting, the following variance requests were determined to no longer be required:

3. UDC – Appendix A. Section 9: C.3.(c)(2) Driveway width.
6. UDC – Appendix A. Section 10: C.1.(b)(1) Frontage build-out - Streetscreen height.
7. UDC – Appendix A. Section 10: C.1.(b)(2) Frontage build-out - access width.
8. UDC – Appendix A. Section 10: C.1.(b)(3) Frontage build-out - wall material and fence screening.
10. UDC – Appendix A. Section 10: C.1.(h) Loading docks and Service Areas.

After motions and votes by the Board, the following variances were denied due to a lack of affirmative votes:

1. UDC – Appendix A. Section 9: A.4. Setbacks / Table A-9.1 Site Configuration.
2. UDC – Appendix A. Section 9: B.4. Primary entrance.
4. UDC – Appendix A. Section 9: D.2.(c) Dumpster enclosure material.

After discussion, the Board determined the following findings of fact to approve the following variances:

Findings of Fact:

- a) The variances will not be contrary to the public interest;
- b) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- c) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variances.

Approved Variances:

5. UDC – Appendix A. Section 10: B.3. Exterior finish materials.
9. UDC – Appendix A. Section 10: C.1.(e) Additional transparency requirement for ground floor commercial uses along frontages.
11. UDC – Appendix A. Section 10: C.4.(d) Common Entry frontage – awnings.

The approval is subject to the following conditions:

1. Subject to the revisions proposed by the applicant for the March 6, 2023 meeting; and

2. Compliance with the Downtown Development District requirements for those aspects of the variance application that were not approved.

V. PUBLIC HEARINGS:

4. #6496

(Case #BOA-002359-2023)

Branded Image Group (Robin Smith, Agent)

5809 U.S. Highway 90 West

(Northeast corner of U.S. Highway 90 West and Hamilton Boulevard).

Sign Variance to allow two (2) freestanding signs, six (6) wall signs and two (2) directional signs with logos at a single-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows one (1) freestanding sign and two (2) wall signs, and does not allow directional signs with logos at a single-tenant commercial site in a B-3, Community Business District.

Council District 4

After discussion, the Board allowed the applicant to withdraw the request.

5. #6497/2320

(Case #BOA-002360-2023)

Big Tuna Express Carwash (David Lane Beaird, Agent)

2820 Spring Hill Avenue

(North side of Spring Hill Avenue, extending from Burton Avenue to Hosfelt Lane).

Tree Planting Variance to allow less than the required number of tree plantings on a commercial site in a B-3, Community Business District; the Zoning Ordinance requires full compliance with the required number of tree plantings on a commercial site in a B-3, Community Business District.

Council District 1

After discussion, and at the request of the applicant, the Board heldover the request to the April 3rd meeting, to allow the applicant time to revise their landscape plan so as to provide additional compliance with tree planting requirements. Revisions should be submitted no later than March 20th.

6. #6498

(Case #BOA-002366-2023)

Branded Image Group (Robin Smith, Agent)

5550 U.S. Highway 90 West

(Southwest corner of U.S. Highway 90 West and Sermon Road North).

Sign Variance to allow five (5) wall signs at a single-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows two wall signs at a single-tenant commercial site in a B-3, Community Business District.

Council District 4

After discussion, the Board allowed the applicant to withdraw the request.

7. #6499

(Case #BOA-002378-2023)

Brent W. & Kelly M. Greenwald

28 Edgefield Road

(Northwest corner of Edgefield Road and Dauphin Street).

Side Street Side Yard Setback Variance to allow a wall taller than three feet (3') along a side street side yard property line in an R-1, Single-Family Residential District; the Zoning Ordinance limits walls to no more than three feet (3') in height along a side street side yard property line in an R-1, Single-Family Residential District.

Council District 7

After discussion, the Board determined the following Findings of Fact for Approval:

- a) Approving the variance request will not be contrary to the public interest due to the fact that similar requests have been approved by the Board for fences and walls along the right-of-way of other heavily-traveled streets within the Spring Hill area;
- b) Special conditions exist, such as property slope, a major street corner, and the fact that other properties within the neighborhood have fences and walls close to or along the street property line, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- c) 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 Spring Hill area.

The approval is subject to the following conditions:

- 1) the obtaining of the proper permit(s) for the construction of the wall;
- 2) subject to the Engineering comments: *(If the proposed variance is approved the applicant will need to have the following conditions met: 1. The wall (including the footers) must be located on private property and NOT within the public ROW. 2. The proposed improvements shown on the submitted plans will require a Land*

Disturbance Permit be submitted through Central Permitting. 3. 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. 4. 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. 5. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.); and

3) full compliance with all municipal codes and ordinances.

8. #6500

(Case #BOA-002388-2023)

Christopher and Johanna Bolling

171 Fenwick Road

(Northeast corner of Fenwick Road and Conway Drive South).

Side Yard Setback Variance to allow a garage/boat shed less than eight feet (8') from a side yard property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least an eight-foot (8') side yard setback for structures in an R-1, Single-Family Residential District.

Council District 5

After discussion, the Board determined the following Findings of Fact for Approval:

- a) **The variance will not be contrary to the public interest;**
- b) **Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and**
- c) **The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.**

The Approval is subject to the following conditions:

- 1) **Sideyard setback to be no less than four (4) feet;**
- 2) **Site limited to a maximum of 35% site coverage**
- 3) **Provision of gutters and downspouts on the side of the new structure with the reduced setback.**

9. #6502/6373

(Case #BOA-002399-2023)

Bethel Engineering (Vince LaCoste, Agent)

4101 Ridgelawn Drive and 1 Ridgelawn Drive East

(West side of Ridgelawn Drive East, extending from Old Shell Road to Ridgelawn Drive).

Front Yard Setback Variance to allow an eight-foot (8') high masonry wall along the front property line in an R-1, Single-Family Residential District; the Zoning

Ordinance requires a 25-foot front yard setback for walls taller than three feet (3') in an R-1, Single-Family Residential District.
Council District 7

After discussion, the Board determined the following Findings of Fact for Approval:

- a) Approving the variance request will not be contrary to the public interest due to the fact that similar requests have been approved by the Board for nearby properties for walls of similar size and location;
- b) Special conditions exist, such as the fact that other properties within the neighborhood have fences and walls close to the street property line, and reduced side street setbacks have been approved, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- c) 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 Spring Hill area.

The approval is subject to the following conditions:

- 1) the obtaining of the proper permit(s) for the construction of the wall;
- 2) subject to the Engineering comments: *(If the proposed variance is approved the applicant will need to have the following conditions met: 1. Submit a revised drawing under permit ENG-081567-2021 showing the proposed wall and revise drainage calculation if the wall will be blocking the runoff going to the proposed detention pond. 2. Get a building permit for each separate wall. 3. The wall (including the footers) must be in its entirety in private property and NOT within the public ROW. 4. The existing driveway located at 1 Ridgeland will need to be removed.);* and
- 3) full compliance with all municipal codes and ordinances.

10. #6503

(Case #BOA-002400-2023)

Bethel Engineering (Vince LaCoste, Agent)

9 Garden Trace

(North side of Garden Trace (private street), 480'± East of Tuthill Lane).

Front Yard and Rear Yard Setback Variances to allow retaining walls over three feet (3') high within the 25-foot front minimum building setback line and the 15-foot rear yard setback line in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow walls over three feet (3') high within the 25-foot front minimum building setback line or within a 15-foot rear yard setback line in an R-1, Single-Family Residential District.

Council District 7

After discussion, the Board determined the following Findings of Fact for Approval:

- a) Approving the variance request will not be contrary to the public interest due to the fact that it will afford for retaining the soil on a re-contoured site, and will not have any adverse effect on traffic along a private street;
- b) Special conditions exist, such as the site has a substantial elevation change requiring re-contouring and back-filling to provide a level surface for construction, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- c) 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 will not be out of character for the topography of the site or the neighborhood.

The approval is subject to the following conditions:

- 1) the obtaining of the proper permit(s) for the construction of the walls; and
- 2) full compliance with all municipal codes and ordinances.

11. #6504/6471/6399/6281/6280

(Case #BOA-002401-2023)

White-Spinner Realty (Mitch Peters, Agent)

65 Sidney Phillips Drive

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

Use Variance to amend a previously approved Use Variance to allow a baseball club in an I-1, Light Industry District; the Zoning Ordinance does not allow a baseball club in an I-1, Light Industry District.

Council District 1

After discussion, the Board determined the following Findings of Fact for Approval:

- a) The variance will not be contrary to the public interest;
- b) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- c) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

VI. OTHER BUSINESS: