

BOARD OF ZONING ADJUSTMENT

RESULTS AGENDA

SEPTEMBER 13, 2021

MEETING TO BE HELD ONLINE

I. CALL TO ORDER:

Chairman William Guess

II. ROLL CALL

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

Staff: Margaret Pappas, Bert Hoffman, Marie York, Victoria Burch, Doug Anderson, Marybeth Bergin, George Davis

III. ADOPTION OF THE AGENDA:

Motion by Jeremy Milling. Second by Adam Metcalfe. **Adopted.**

IV. HOLDOVERS:

1. #6405/5915/5272/3366/3139/1640

(Case #BOA-001707-2021)

Rebecca Persekian

1757 Government Street

(Southwest corner of Government Street and Weinacker Avenue).

Use, Access/Maneuvering, and Tree Planting Variances to allow a lounge and banquet venue with parking nose-in/back-out within a right-of-way, with no additional tree plantings in a B-1, Buffer Business District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for the operation of a lounge and banquet venue with all parking and maneuvering spaces on private property, and full compliance with tree planting requirements.

Council District 2

Motion to approve by Adam Metcalfe. Second by Greg Morris. **Approved**

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

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- 1) Approving the variance requests will not be contrary to the public interest due to the fact the site has been used commercially and the proposed business could be considered a continuation of a similar commercial use;
- 2) Special conditions exist, including the current site conditions, 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 due to the fact that the applicant will have a similar type of use and site condition as previously on this property.

The approval is subject to the following conditions:

- 1) Limitation of the piano lounge hours of operation to 3:00 PM to 11:00 PM;
 - 2) Single vocal or instrumental musicians (“piano bar”) or small performing musical ensemble groups such as jazz ensemble;
 - 3) Closed on event venue nights such as weddings, receptions, banquets, group parties, etc.;
 - 4) 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 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 to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.)*;
 - 5) Obtaining of any necessary Building Code and Fire Code inspections; and
 - 6) Full compliance with all municipal codes and ordinances.
2. #6406/6383/4797/4783/671
(Case #BOA-001703-2021)
Stephen Howle
1812 Old Shell Road
(North side of Old Shell Road, 105’± East of Shell Road Place).
Sign Variance to allow suspended signage outside a historic district in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow suspended signage outside a historic district in a B-2, Neighborhood Business District.
Council District 1
Motion to approve by Jeremy Milling. Second by Sanford Davis. **Approved**
Lewis Golden recused

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

- 1) Approving the variance request will not be contrary to the public interest due to the fact that it will be in keeping with the applicant's intent to convey an image in keeping with the nearby historic district;
- 2) Special conditions appear to exist, primarily the all-glass commercial unit facades, minimal awning thickness, and residential use above the awning, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship;
- 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 businesses in a historic-designed development proper identification which would ordinarily not be possible under standard regulations.

The approval is subject to the following conditions:

- 1) limitation of the signage to a height of 20 inches each;
- 2) provision of a minimum of eight (8) feet above grade to the bottom of the signs;
- 3) the obtaining of the proper sign permit for each sign; and
- 4) full compliance with all municipal codes and ordinances.

3. **#6407/4282**

(Case #BOA-001706-2021)

Winston Davison

1590 Regency Drive

(Southwest corner of Regency Drive and Knob Hill Drive).

Use Variance to allow the storage of a commercial truck and trailer at a residence in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow the storage of commercial trucks and trailers at a residence in an R-1, Single-Family Residential District.

Council District 4

Motion to deny by Adam Metcalfe. Second by John Burroughs. **Denied**

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

- 1) Approving the variance will be contrary to the public interest in that it will allow the storage of a large loaded commercial truck and trailer in a residential neighborhood;
- 2) Special conditions do not exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, in that the truck and trailer could be stored at either a properly zoned location, or location outside of the City of Mobile; and

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- 3) **The spirit of the chapter shall be not observed, and substantial justice shall not be done to the applicant and surrounding neighborhood by granting the variance by setting a precedent for other properties in the area, if approved.**

V. EXTENSIONS:

4. #6341

(Case #BOA-001336-2020)

Furr Street Partners, LLC

108 and 110 Furr Street

(East side of Furr Street, 185'± North of Old Shell Road).

Parking and Maneuvering Surface Variance to allow aggregate surfacing in a B-3, Community Business District; the Zoning Ordinance requires parking and maneuvering surfaces to be paved with concrete, asphalt, asphaltic concrete, or an approved alternative paving surface in a B-3, Community Business District.

Council District 1

Motion to approve by Lewis Golden. Second by Greg Morris. **Approved**

After discussion, the Board approved the request for a 6-month extension of approval.

VI. PUBLIC HEARINGS:

5. #6414

(Case #BOA-001741-2021)

Project 50, LLC

(East side of East I-65 Service Road North, 695'± South of Werkland Street).

Access/Maneuvering Width and Access/Parking Surface Variances to allow a sub-standard width driveway and aggregate access and parking surfacing in a B-3, Community Business District; the Zoning Ordinance requires a compliant width driveway and requires access and parking surfaces to be paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.

Council District 1

Motion to approve by Lewis Golden. Second by Greg Morris. **Approved**

Jeremy Milling recused.

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 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 done to the applicant and the surrounding neighborhood by granting the variance.**

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6. **#6415**
(Case #BOA-001746-2021)
William R. Healy, Jr.
1209 Government Street
(South side of Government Street, 265'± West of Rapier Avenue).
Use Variance to allow a second dwelling unit at a residence in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow more than one dwelling unit at a residence in an R-1, Single-Family Residential District.
Council District 2
Motion to holdover by Adam Metcalfe. Second by Greg Morris. **Heldover to the October 4th meeting**

After discussion, the Board heldover this application to the meeting of October 4th at the applicant's request.

7. **#6416**
(Case #BOA-001747-2021)
Betty Bush
1615 Union Street
(West side of Union Street, 500'± South of Rochester Street).
Use Variance to allow more than five (5) children in a home-based daycare, with an employee who does not live there, in an R-1, Single-Family Residential District; the Zoning Ordinance limits a home-based daycare to no more than five (5) children, and requires all employees to live at the site, in an R-1, Single-Family Residential District.
Council District 1
Motion to approve by John Burroughs. Second by Sanford Davis. **Approved**

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

- 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. Compliance with all requirements of the Alabama Department of Human Resources for daycare facilities with 10 children;**
- 2. Compliance with all Fire requirements for daycare facilities with 10 children; and**
- 3. Full compliance with all other municipal codes and ordinances.**

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8. **#6417**
(Case #BOA-001748-2021)
Mitchell Sign Company (Mark Tramontana, Agent)
6823 Old Shell Road
(Southwest corner of Old Shell Road and Foreman Road).
Sign Variance to allow a digital sign within 300 feet of residentially zoned property in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow digital signs within 300 feet of residentially zoned properties in an R-1, Single-Family Residential District.
Council District 7
Motion to deny by Jeremy Milling. Second by Adam Metcalfe. **Denied**

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

- 1) Approving the variance will be contrary to the public interest in that it is contrary to Section 64-11.8.c(7) of the Zoning Ordinance;
- 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 since the existing sign is adequately visible from the roadway;
- 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 because the proposed signage may establish a precedent by which future Sign Variance requests could be approved if no special conditions or hardships to an individual property exist.

9. **#6418**
(Case #BOA-001749-2021)
Robert McCollum
690 Zeigler Circle East
(East side of Zeigler Circle East, 590'± South of Zeigler Boulevard).
Landscaping, Frontage Tree Planting, Perimeter Tree Planting, and Parking Surface Variances to allow no landscaping, no frontage tree plantings, no perimeter tree plantings, and an aggregate parking surface in a B-3, Community Business District; the Zoning Ordinance requires full compliance with landscaping, frontage tree planting and perimeter tree planting requirements, and requires parking surfaces to be paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.
Council District 7
Motion to approve by Greg Morris. Second by Lewis Golden. **Approved**

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

- 1) Approving the variance requests will not be contrary to the public interest due to the fact that sufficient area does not exist to provide the required area for frontage tree

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plantings;

- 2) Special conditions exist, such as the fact that the existing portion of the over-all site was developed prior to annexation and being subject to the City’s site development standards, 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 variances because the requests would still allow for some degree of site compliance.**

The approvals are subject to the following conditions:

- 1) coordination with staff on donation to the Mobile Tree Bank for any shortage of trees which cannot be planted due to site constraints; and**
- 2) full compliance with all municipal codes and ordinances.**

VII. OTHER BUSINESS: