



THE CITY OF MOBILE, ALABAMA

BOARD OF ZONING ADJUSTMENT

LETTER OF DECISION

July 14, 2021

Garden Design Solutions
Paul Fontenot
P.O. Box 2146
Fairhope, AL 36533

Re: #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)

Dear Applicant(s) / Property owner(s):

On July 12, 2021, the Board of Zoning Adjustment considered your request for a **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.**

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 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.

Any party aggrieved by this decision may, within fifteen days of the date of the decision, appeal to the Circuit Court of Mobile County by filing a written notice of appeal, specifying the decision from which the appeal is taken. Notice of the appeal, as well as a date stamped copy of the appeal filed in Circuit Court must be filed with this Board within the fifteen-day appeal period.

No permit, license or certification can be issued until the 15-day appeal period has expired and no appeal has been made. If a permit/license has not been obtained on or before **January 12, 2022**, the variance will expire and become null and void.


For additional assistance call (251) 208-5895.

Sincerely,

BOARD OF ZONING ADJUSTMENT

William Guess, Chairman

By:


Marie York, Principal Planner