



THE CITY OF MOBILE, ALABAMA
BOARD OF ZONING ADJUSTMENT
LETTER OF DECISION

****CORRECTED****

December 8, 2016

E Square LLC
3070 Dog River Drive
Mobile, AL 36582

Re: #6069/6027/5706/1048
(Case #ZON2016-02169)
Ernest W. Whiston, Manager, E Square, LLC
2724 Old Shell Road
(Northeast corner of Old Shell Road and Bay Shore Avenue)

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

On December 5, 2016, the Board of Zoning Adjustment considered your request for a **Parking Ratio, Front Setback, Side Street Side Yard Setback, and Tree Planting Variances** to allow an existing 12,641 square-foot structure that is within 22 feet from the front property line and within zero feet (and extends into the right-of-way) of the side property line, to be converted into a retail business and restaurant and 64 parking spaces with reduced frontage tree plantings in a B-2, Neighborhood Business District; the Zoning Ordinance requires at least a 25-foot front yard setback and a 20-foot side street side yard setback, at least 68 onsite parking spaces for retail business and restaurant, and full compliance with tree planting requirements in a B-2, Neighborhood Business District at the above referenced location.

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

- 1) Granting the variances will not be contrary to the public interest because the proposed reuse of a long vacant building will reduce the potential for blight within the adjacent community, and will be consistent with the Board's previous decision for this site;
- 2) Special conditions exist with the property itself, including the existence of the building up to and across the property line along Bay Shore Avenue and the existing parking within the

right-of-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 applicant and the surrounding neighborhood by granting the requested variances, as the other improvements to the site, including the construction of a new parking lot, will comply with all other City requirements.

The Approval should be subject to the following conditions:

- 1) subject to obtaining a Right-of-Way Use Agreement with the City of Mobile for the parking within the New Shiloh Avenue right-of-way;
- 2) subject to obtaining a Non-Utility Right-of-Way Use Agreement with the City of Mobile for the structure within the New Shiloh Avenue right-of-way;
- 3) compliance with Engineering comments *[FRONT SETBACK VARIANCE: If the proposed variance is approved for use the applicant will need to have the following conditions met: Submit and receive a ROW Use Agreement from the Engineering Department for the proposed structures and parking spaces located within the ROW. SIDE STREET SIDE YARD VARIANCE: If the proposed variance is approved for use the applicant will need to have the following conditions met: Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. 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.];*
- 4) compliance with the Traffic Engineering comments *(Each lot is limited to one curb cut per street frontage, with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. The existing parking area in the right-of-way, if approved, would be excluded from the curb cut restriction and may remain as approved. Approval will include the retention of paving in the aisle to the south of the southern most parking space to allow for backing in the parking area with little impact on the adjacent travel lane. Any new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.);*
- 5) compliance with 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).]*
- 6) compliance with the Urban Forestry comments: *(Due to the lack of greenspace, if variance is approved, Tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry.);* and
- 7) full compliance with all other municipal codes and ordinances.

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.

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Ernest W. Whiston, Mgr., E Square

December 8, 2016

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 June 5, 2017, the **Parking Ratio, Front Setback, Side Street Side Yard Setback, and Tree Planting Variances** 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
Marie York, Planner II

cc: Barton & Shumer Engineering, LLC

/lr