

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF OCTOBER 6, 2008 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
William Guess
Vernon Coleman
Sanford Davis
Mack Graham
Russell Riley*
*supernumerary member

MEMBERS ABSENT

J. Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Joanie Stiff-Love, Secretary II

OTHERS PRESENT

John Lawler, city attorney
Butch Ladner, Traffic Engineering
David Daughenbaugh, Urban Forestry

The notation *motion carried unanimously* indicates a consensus, with the Chairman voting.

CALL TO ORDER:

Chairman Cummings advised all in attendance as to the policies and procedures of the Board of Zoning Adjustment. He noted the number of members present constituted a quorum with the supernumerary member not voting unless a regular member had to recuse themselves. He then called the meeting to order.

HOLD OVERS:

#5479/3588

(Case #ZON2008-01535)

Howard C. Melech

2704 Old Shell Road

Northwest corner of Old Shell Road and North Mobile Street

Use, Parking Surface, Parking Ratio, and Tree and Landscaping Variances to amend a previously approved Use Variance to allow the expansion of a boat repair shop with aggregate vehicle parking and boat storage areas, undesignated parking area, and no proposed tree plantings and landscaping areas in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum B-3, Community Business District with Planning Approval for boat repair, with concrete, asphalt, or an approved alternative paving surface for vehicle parking and boat storage, an appropriate number of designated parking spaces, street frontage landscaping and frontage and perimeter tree plantings in a B-2, Neighborhood Business District.

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David Conrad, Attorney at Law, spoke on Mr. Melech's behalf, stating:

- A. proposed putting gravel surfacing on Lots 15 and 16 from the south of the property to the property line;
- B. proposed planting trees along the fence line in compliance with the landscaping ordinance;
- C. requested a Use Variance along Lots 12, 13, 14, 15, and 16, as well as an Alternate Surface Variance that would allow his client to gravel Lots 15 and 16, whereas Lots 12, 13, and 14 have either concrete or gravel surfacing already in place;
- D. the business was that of boat repair and there were only two employees, the applicant and one other person, thus eliminating the need for designated parking as well;
- E. boats on the lot were moved often and doing so on concrete or asphalt surfacing would destroy that surfacing quickly, adding an unnecessary additional cost of doing business to the applicant;
- F. the last hold over was to allow time to gather information regarding the cost of a curb-cut, which the applicant was willing to install if that is required for approval, however, it was noted that the site did have a curb-cut onto Mobile Street; and,
- G. noted that there were no curbs or curb-cuts along Old Shell Road, except at the main entrance onto the UMS-Wright campus located directly across from the applicant's property.

The Chair questioned why there was an issue of creating curb-cuts when the applicant had almost 236 feet of road frontage from the corner along Old Shell Road. He clarified that the request was for two specific curb-cuts, rather than leaving the entire frontage along Old Shell Road open directly to the street.

Mr. Palombo stated a site plan would also need to be submitted by the applicant showing the exact locations of the two designated curb-cuts.

The issue of sidewalks was raised and the Chair asked if there were any sidewalks along Mobile Street to the Old Shell Road Corner or from Old Shell Road heading west and was advised there were not.

Mr. Palombo stated the applicant could apply for a sidewalk waiver from the Planning Commission.

Mr. Guess asked if the Board could exempt the applicant from having to put sidewalks in place and was advised by Mr. Palombo that was not within the Board's purview.

Mr. Lawler stated, regarding the sidewalk issue, that a subdivision of property usually triggered that requirement and as the applicant was not doing any subdivision of the property, Mr. Lawler did not see how he could be required, at this time, to put a sidewalk in place so there was no need to seek a waiver or be given an exemption in this regard.

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The Chair then stated that if there were those in attendance who wished to speak regarding the matter to please do so at that time. The Chair noted there was no one else in attendance for the variance.

The Chair asked if there were any more questions for the applicant. Hearing none, the Chair called for a motion.

A motion to approve was made by Mr. Cummings, with second by Mr. Coleman, on the request for **Use, Parking Surface, Parking Ratio, and Tree and Landscaping Variances to amend a previously approved use variance to allow the expansion of a boat repair shop with aggregate vehicle parking and boat storage areas, undesignated parking area, and no proposed tree plantings and landscaping areas in a B-2, Neighborhood Business District at the above referenced location, with the following conditions:**

- 1) **provision of aggregate surfacing, as illustrated on the submitted site plan;**
- 2) **provision of tree/landscaping, as required by Section 64-4.E. of the Zoning Ordinance on Lots 14, 15 and 16;**
- 3) **closing of the continuous curb cut along Old Shell Road and the provision of two curb cuts along Old Shell Road, with the size, location, and design approved Traffic Engineering and conforming to AASHTO standards;**
- 4) **provision of a buffer, in compliance with Section 64-4.D. of the Zoning Ordinance, where the site abuts residentially zoned property, to exclude the buffer requirements along Old Shell Road;**
- 5) **submission of a revised site plan to the Planning Department of Urban Development prior to the issuance of any permits or land disturbance activities; and,**
- 6) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

PUBLIC HEARINGS:

#5496

(Case #ZON2008-02191)

Anil Badve

365 Williams Street

Area bounded by Williams Street, Airport Boulevard, Dauphin Island Parkway, and Government Street

Side Yard Setback Variance to allow the placement of a dumpster enclosure within 12'-2" of a side street property line in a B-3, Community Business District; the Zoning Ordinance requires a 25' side yard setback for all structures in a B-3, Community Business District.

The Chair announced the matter and advised it had been recommended for denial and that the applicant should address the Board regarding the subject at that time. He then stated that if there

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were those in attendance who wished to speak to please do so at that time. The Chair noted there was no one in attendance for the variance.

A motion to deny was made by Mr. Coleman, with second by Mr. Guess, on the request for a **Side Yard Setback Variance to allow the placement of a dumpster enclosure within 12'-2" of a side street property line in a B-3, Community Business District** at the above referenced location due to the lack of representation for the applicant to address any questions or concerns of the Board of Zoning Adjustment.

The motion carried unanimously.

#5497

(Case #ZON2008-02248)

Mr. & Mrs. Thomas E. Repoll, Jr.

2017 Dauphin Street

South side of Dauphin Street, 105'± East of South Fulton Street

Side Yard and Rear Street Yard Setback Variances to allow the construction of a 12.3' x 16.2' shed within 3' of a side property line and 3.2' of a rear street property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' side yard setback and a 20' rear street yard setback for all structures in an R-1, Single-Family Residential District.

The Chair announced the matter and advised it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Dina Repoll, 2017 Dauphin Street, Mobile, AL, spoke on behalf of herself and her husband, and stated the storage building in question was built before they realized what the correct process for doing such was. She explained that she had three children who played a great deal in the yard and that a large number of the neighboring children came to her yard to play as well. She stated the storage building had been located so that as much of the yard as possible was available for play. She also advised that there were two large oak trees located in the middle of the back portion of the yard which had also affected the location of the storage building. She added that when they put in the new addition to their home, they tore down the original storage shed. She said it was her belief that as the permit noted the demolition of the original storage shed and the construction of other structures, that the permit also covered the new storage, however, when she became aware the permit did not cover the new storage, she got a permit for said structure.

Mr. Cummings asked the location of the original storage and was advised it stood where the new addition was located.

Mr. Cummings asked if the new storage was anchored to the ground or was it on some type of column.

Mrs. Repoll advised it sat on brick piers.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there was anyone else who wished to speak on the matter and opened the floor to their comments. The Chair noted there was no one else in attendance for the variance.

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Mr. Whistler noted that if the Board was leaning toward approving the matter, as the structure was less than 5 feet from the setback the staff would like to see gutters and downspouts installed on the structure as a condition.

A motion was made by Mr. Coleman, with second by Mr. Guess, to approve the request for a **Side Yard and Rear Street Yard Setback Variances to allow the construction of a 12.3' x 16.2' shed within 3' of a side property line and 3.2' of a rear street property line in an R-1, Single-Family Residential District** at the above referenced location, subject to the following condition:

- 1) **the provision of gutters and downspouts.**

The motion carried unanimously.

#5498

(Case #ZON2008-02274)

Jordan Investments, L.L.C.

106 South Monterey Street

West side of South Monterey Street, 65' ± North of Laurel Street

Use and Parking Ratio Variances to allow a garage apartment (an R-2, Two-Family Residential use) at a single-family dwelling with undesignated parking spaces in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow R-2, Two-Family Residential use in an R-1, Single-Family Residential District, and three designated parking spaces are required for R-2, Two-Family Residential use.

The Chair announced the matter and advised it had been recommended for approval and that the applicant should address the Board regarding the subject at that time.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant and noted the number of properties in the area that were currently in use as R-2, Two-Family Residential use or R-3, Multi-Family Residential use in the area surrounding his client's property. He also noted the garage had the legal address of 106 ½ South Monterey Street, while the house proper had the legal address of 106 South Monterey Street. Mr. Anderson also presented documentation from the previous owner showing that the garage apartment had been used as such since his purchase of the property in 1985. He added that based upon all of the information he had been able to gather, the garage apartment had been in place and in use for over 50 years.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments.

The following people spoke in opposition:

- Dave Presnell, 101 S Monterey Street, Mobile, AL;
- Josh Gengo, 109 S Monterey Street, Mobile, AL; and,
- Gary Cooper, 108 S Monterey Street, Mobile, AL.

They made the following points against the variance:

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- A. the neighborhood was a nice, residential neighborhood and they did not want to see that change;
- B. Monterey Street was narrow and the proposed use would lead to more on-street parking, which was felt would lead to unnecessary traffic congestion;
- C. rental property carried the risk of less than desirable neighbors;
- D. presented 14 signatures of area neighbors against the matter, and,
- E. with 3 parking spaces on-site for the garage apartment, there was concern that due to there being residents in the house as well, someone might be blocked in and that would lead to the former parking issues.

Mr. Guess asked the applicant how many units were located in the garage and was told it had 1 unit.

The Chair asked if there were any more questions for the applicant and hearing none, the Chair called for a motion.

A motion was made by Mr. Graham, with second by Mr. Coleman, to approve the request for a **Use and Parking Ratio Variances to allow a garage apartment (an R-2, Two-Family Residential use) at a single-family dwelling with undesignated parking spaces in an R-1, Single-Family Residential District** at the above referenced location, subject to the following conditions:

- 1) **modification of the parking/maneuvering area to be compliant and provide a minimum of three parking stalls, subject to staff approval of a revised site plan for such; and,**
- 2) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5499/5290

(Case #ZON2008-02280)

Bobby Williams

1114 Government Street

North side of Government Street, 430'± West of South Hallett Street

Use and Front Yard Setback Variances to allow a residential duplex to be constructed 68' from the front property line in an R-1, Single-Family Residential District within the Historic District Overlay; the Zoning Ordinance requires a minimum of R-2, Two-Family Residential District for a residential duplex, and a maximum front yard setback of 37' is required within the Historic District Overlay in an R-1, Single-Family Residential District.

The Chair announced the matter and advised it had been recommended for approval and that the applicant should address the Board regarding the subject at that time.

M. Don Williams, Williams Engineering, spoke on behalf of the applicant stating they were in agreement with the recommendations.

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The Chair then stated that if there were those in attendance who wished to speak regarding the matter to please do so at that time. The Chair noted there was no one else in attendance for the variance.

The Chair asked if there were any questions for the applicant from the Board, and hearing none the Chair called for a motion.

A motion was made by Mr. Coleman, with second by Mr. Graham, to approve the request for a **Use and Front Yard Setback Variances to allow a residential duplex to be constructed 68' from the front property line in an R-1, Single-Family Residential District within the Historic District Overlay** at the above referenced location, subject to the following conditions:

- 1) **all necessary historic approvals;**
- 2) **full compliance with all codes and ordinances;**
- 3) **subject to the approval of a one-lot subdivision to create a legal lot of record for the site, and any conditions of such approval; and,**
- 4) **coordination of drive location with Traffic Engineering and Urban Forestry, and approval by ALDOT.**

The motion carried unanimously.

#5500
(Case #ZON2008-02284)
Mr. & Mrs. Joe Brown, Jr.
3909 McGregor Court

South side of McGregor Court, 160'± West of South McGregor Avenue

Side Yard Setback and Combined Side Yard Variances to allow the construction of a storage shed within 3.1' of a side property line with a combined side yards total of 17.1' in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' minimum side yard setback with a combined side yards total of 20' in an R-1, Single-Family Residential District.

The Chair announced the matter and advised it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Joe Brown, Jr., 3909 McGregor Court, Mobile, AL, spoke on his own behalf and presented letters from his neighbors in support of his requested variance.

Crosby Latham, EC Latham and Company Designers, who was hired by Mr. Brown after the Urban Development staff advised Mr. Brown to stop work on his structure. He stated his firm had drawn the site plan for the proposal and was there to answer any questions regarding that site plan.

The Chair asked how far the structure was from the rear property line and was told it was more than 20 feet from the rear and a little over 3 feet from the side setback.

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Mr. Latham explained that the applicant simply wanted a single, sloped, fiberglass panel, roof next to his house to shed rain water toward the rear of the house. He went on to say that the pictures before the Board that day were of the project prior to Urban Development advising Mr. Brown to stop. Mr. Latham stated that the new plan was to provide 3.1 feet of sideline clearance to the shed area.

The Chair asked for clarification as to whether or not the shed would be connected in any way to the fence and was advised it would not be.

Mr. Palombo asked about the garden shed on site and was advised it was in place when Mr. Brown purchased the property. Mr. Latham also advised that the shed in question had become a work-out room for Mrs. Brown.

Mr. Guess asked the applicant if he had considered expanding the current shed to which Mr. Brown advised he had not considered such a thing. Mr. Brown added that it would be quite expensive to do so and that it would still put the structure too close to the setback lines.

The Chair asked if there were any more questions for the applicant. He then stated that if there were those in attendance who wished regarding the matter to speak to please do so at that time. The Chair noted there was no one else in attendance for the variance and called for a motion.

A motion was made by Mr. Coleman, with second by Mr. Guess, to approve the request for **Side Yard Setback and Combined Side Yard Variances to allow the construction of a storage shed within 3.1' of a side property line with a combined side yards total of 17.1' in an R-1, Single-Family Residential District** at the above referenced location, with the following conditions:

- 1) **provision of gutters and downspouts; and,**
- 2) **to allow the nonconforming shed illustrated in the submitted site plan to remain.**

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: April 5, 2010

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Chairman of the Board
/jsl