

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF NOVEMBER 7, 2011 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

William Guess, Chairman
Vernon Coleman
Sanford Davis
Adam Metcalfe
Jeremy Milling
*supernumerary member

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Sondi Galanti, Secretary I

MEMBERS ABSENT

Russell Reilly*
J. Tyler Turner*

OTHERS PRESENT

John Lawler, City Attorney
Butch Ladner, Traffic Engineering
Marybeth Bergin, Traffic Engineering
George Davis, City Engineering
Gerard McCants, Urban Forestry
District Chief Billy Roach, Mobile Fire-Rescue
Captain Debbie Bryars, Mobile Fire-Rescue

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

CALL TO ORDER:

Chairman Guess advised all in attendance as to the policies and procedures of the Board of Zoning Adjustment. He stated there were five regular members present which constituted a quorum, with no supernumerary member(s) present. He advised that it would require four members to vote in the affirmative to approve any variance and then called the meeting to order.

APPROVAL OF MINUTES:

Mr. Metcalf moved, with second by Mr. Coleman, to approve the minutes from the following meetings:

- March 14, 2011, and,
- April 4, 2011.

The motion carried unanimously.

HOLDOVERS:

#5708/5685

(Case #ZON2011-02273)

Advanced Disposal Services Gulf Coast, LLC & Jeffrey E. Quinnelly

6225 Rangeline Road

(East side of Rangeline Road, 1400'± North of Old Rangeline Road)

Surfacing, Off-Site Parking, Access/Maneuvering, and Front Landscaping Area Variances to allow a disposal and recycling facility with gravel parking and maneuvering area, off-site parking, 20' access/maneuvering area, and reduced front landscaping area in a B-5, Office-Distribution District; the Zoning Ordinance requires parking and maneuvering areas to be paved with asphalt, concrete, or an approved alternative paving surface, all parking to be provided on-site, access/maneuvering area to be a minimum of 24' wide, and 60% of minimum required landscaping area to be located between the right-of-way and the building in a B-5, Office-Distribution District.

The Chair announced the matter, advising the variance request for Parking Surface for the dumpster storage and loading and unloading area had been recommended for approval with all other variance requests recommended for denial. He stated the applicant should address the Board regarding the subject at that time

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicants. He made the following points:

- A. packets with information regarding why the matter should be approved had been presented to the Board Members;
- B. the site in question housed both the Advanced Disposal Services and Fastnall facilities;
- C. the site had been annexed into the city only a couple of years prior;
- D. a great portion of the area along Rangeline Road was very commercial with many gravel parking lots at numerous locations;
- E. the matter came about the previous summer when Advanced Disposal Services leased the area behind the Fastnall building to allow Advanced Disposal Services to ability to move some of their trucks and dumpsters there;
- F. the applicant agreed to comply with landscaping and withdrew that request;
- G. the access/maneuvering request was due to the six to seven parking spaces immediately in front of the Advanced Disposal Services facility because staff wanted those removed due to the applicant constructing six to eight parking spaces in the rear of the building;
- H. the applicant agreed to remove the front parking with the exception of being allowed to keep two handicapped parking spaces there as the front door was the most easily accessible to individuals needing handicapped spaces;
- I. the off-site parking variance request was necessary as otherwise it would be necessary to have a Planned Unit Development with Jeffrey Quinnelly,

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the owner of Fastnall, which would create a situation where both properties would have to come into compliance thus creating a financial hardship for the property owners;

- J. regarding the request for a variance in surfacing, the staff recommended the area of the parking lot used for the storage of the dumpsters be granted the variance due to the loading and unloading of the same, which would tear up asphalt, with the remainder of the parking lot used for parking the large dump trucks be paved;
- K. noted none of the parking was segregated so there was no area delineated for specific parking of any specific type of vehicle; and,
- L. noted the elevation in the area was such that should the parking area be paved it would create a "highway" for surface water drainage to run onto the property behind them which would create flooding issues and referenced the packet for pictures illustrating the same.

Mr. Guess asked how many employees routinely park in the area.

Mr. Anderson stated he had not asked to be certain, but based upon the number of cars that were parked on the site when he took the pictures presented to the Board that day, he would estimate probably 25 cars.

Mr. Guess stated it appeared that with the exception of five vehicles parked in the front of the building, all others were parked in the rear of said building.

Mr. Coleman asked if the staff had any problems with leaving the two handicapped parking spaces in front of the building.

Mr. Palombo stated there were no issues with leaving those as the applicant had suggested they would remove all of the other front parking.

Mr. Metcalf asked what staff's reasoning was behind asking the applicant to remove the parking from the front of the building.

Mr. Palombo advised the staff had requested landscaping in that area as well as the parking spaces as currently configured were non-conforming.

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. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Coleman, with second by Mr. Davis, to deny the front landscaping variance, but to approve the surfacing, off-site parking and access/maneuvering variances, subject to the following conditions:

- 1. provision of providing two handicap parking spaces in front of the site;**
- 2. denial of access from the southern development; and**
- 3. full compliance with all other municipal codes and ordinances.**

The matter carried unanimously.

PUBLIC HEARINGS:

#5717/5613

(Case #ZON2011-02548)

Board of Water and Sewer Commissioners

East side of Shelton Beach Road Extension, 820'± North of Moffett Road.

Use and Surfacing Variances to allow a contractor's storage yard and gravel surfacing in a B-3, Community Business District; the Zoning Ordinance requires a minimum of I-1, Light Industry District for a contractor's storage yard and requires all parking areas to be surfaced in asphalt, concrete, or an approved alternative paving surface.

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

Tony Schachle, Volkert Inc., spoke on behalf of the applicant. He stated they were in agreement with the staff's recommendations with the exception of Condition 2 which stated the site was to have no deliveries of bulk materials to the site except between 9 a.m. and 5 p.m., Monday through Friday. He asked the condition be changed to match the language in Condition 1, which called for the hours of operation to be from 6 a.m. to 6 p.m., Monday through Friday, and include the verbiage regarding severe storm events, declared emergencies, or emergency after-hours call-outs.

Mr. Palombo stated an associated matter had been approved by the Planning Commission and the verbiage in the variance should "mirror" the verbiage in the Planning Commission's approval.

Mr. Metcalf asked for clarification regarding the area the applicant was asking for a variance regarding surfacing.

Mr. Palombo illustrated the area in question on the Powerpoint presentation.

Mr. Metcalf asked what would be stored in the bulk storage.

Mr. Volkert stated it would be top soil, rock, sand, gravel, and other back fill materials.

Mr. Coleman asked if there would be a natural berm.

Mr. Palombo stated the area was heavily forested so it would be naturally buffered.

Mr. Coleman wanted to know what would happen if some of the materials due for bulk storage were delayed and could not arrive until after 6 p.m. and asked would that be considered a necessity or an emergency.

Mr. Palombo stated if it were an emergency or storm related event, they would have approval for said delivery.

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Mr. Coleman stated he meant something more along the lines of a wreck on the interstate or some other issue caused the bulk materials truck to be later than 6 p.m. with their delivery.

Mr. Palombo stated he would construe that be a hazard issue.

Mr. Guess was concerned that deliveries would not be scheduled thus making the scenario described by Mr. Coleman an option.

Mr. Palombo stated he felt such deliveries would probably be scheduled and if such became frequent and neighbors complained, it would be addressed.

Mr. Metcalf asked what the area north of the tanks would be used for.

Mr. Palombo stated it would be used for parking and a lay-down yard.

Mr. Volkert stated the area was designated for field operations so company vehicles and equipment would be parked there. He added the area would have an asphalt surface.

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. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalf, with second by Mr. Coleman, to approve the above referenced request, subject to the following conditions:

- 1) placement of a note on the site plan stating that no operation of heavy machinery shall occur outside of the hours of 6am to 6pm, Monday thru Friday unless it is due to a severe storm event, declared emergency, or emergency after-hours call-out;**
- 2) placement of a note on the site plan stating that no deliveries of bulk materials to the site shall occur except between 6am to 6pm, Monday thru Friday unless it is due to a severe storm event, declared emergency, or emergency after-hours call-out;**
- 3) provision of a 25-foot wide natural landscape buffer along the East and North sides of the site where the property abuts residential or multi-family uses;**
- 4) enclosure of all “contractor storage yard” areas with an 8-foot high solid wall or fence, except where access is required internal to the site;**
- 5) bulk storage area to be designed in such a manner as to prevent runoff and spillage of bulk materials; and**
- 6) full compliance with the site and parking lighting requirements of Section 64-4.A.2., *Illumination of uses*, and Section 64-6.A.3.c., *Lighting*, of the Zoning Ordinance.**

The matter carried unanimously.

#5718

(Case #ZON2011-02557)

Joe Mason

1412 & 1416 Wolf Ridge Road

(East side of Wolf Ridge Road, 200'± North of Moffett Road)

Front Landscaping Variance to allow 2,435 square feet of front landscaping areas on a 94,510 square foot lot; the Zoning Ordinance requires 6,804 square feet of front landscaping area for a lot 94, 510 square feet in B-3, Community Business District.

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

Frank Dagley, Frank Dagley and Associates, spoke on behalf of the applicant. He stated the lot was very large and the owner was only developing 150 feet in the front so consequently, if the applicant had to provide front landscaping for the entire site, there would be more landscaping than developed site. He added there were also some large trees they wished to save. The owner understood that should he ever do anything to the rear portion of the property, landscaping would be required.

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. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Coleman, with second by Mr. Milling, to approve the above referenced request, subject to the following conditions:

- 1) all existing trees counted for credit must be within the limits of the disturbed area;**
- 2) any expansion of the disturbed/improved area on the site will require a new variance application; and**
- 3) full compliance with all municipal codes and ordinances.**

The matter carried unanimously.

#5719

(Case #ZON2011-02562)

B. C. Daniels

802 Galoway Avenue

(West side of Galoway Avenue, 675'± South of Airport Boulevard)

Side Street Side Yard Variance to allow construction of a dwelling within 8.67' of a side street side property line on a 50' wide lot line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 12.9' minimum side street side yard in an R-1, Single-Family Residential District.

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

Michael Daniels, 5617 Cottage Hill Road, spoke on behalf of the applicant. He made the following points in favor of approving the matter:

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- A. this was the last vacant lot on Galoway Avenue;
- B. noted the Zoning Ordinance had been adopted in 1968 , however, to his knowledge, no corner lot in that area had been built to the 12.9 feet set back as required by in the Zoning Ordinance;
- C. provided copies of surveys showing lots with less than the 12.9 feet set back;
- D. did not wish to vacate the next door property which was owned by the City; and,
- E. simply wanted to build out on the lot in the same fashion as so many others had since the 1990's.

Mr. Milling asked why the applicant did not want to go through the vacation process regarding the adjacent City-owned lot.

Mr. Daniels responded one issue was time, another there was no guarantee a vacation would be granted as it required agreement by all of the adjoining property owners, including the ones on Linlen Avenue, the next street over, who had established houses and were using Howard Street.

Mr. Palombo stated if the Board was leaning toward approval, the staff wished to stipulate denial of access to Howard Street, as it was not a constructed street.

Mr. Daniel agreed to the denial of access to Howard Street.

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. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalf, with second by Mr. Davis, to approve the above referenced request, subject to the following conditions:

- 1) direct access to Howard Street is denied; and**
- 2) full compliance with all municipal codes and ordinances.**

The matter carried unanimously.

#5720/5323/4729/4500/4429

(Case #ZON2011-02564)

S.O.A.P., LLC.

351 George Street

(Southeast corner of George Street and Savannah Street)

Use Variance to amend a previously approved variance to allow the expansion of an existing restaurant in a R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for a restaurant.

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

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Kevin Carley, 19 Westgate Road, S.O.A.P. LLC, spoke on behalf of the property owner. He made the following points:

- A. Culinard, the Culinary Institute of Virginia College, currently operated a restaurant at that address;
- B. the facility had limited refrigerated storage and they needed to expand and create space for a walk-in cooler; and,
- C. the proposed expansion would be in an area currently used for out door dining and would reduce seating as opposed to increase it.

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. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Coleman, with second by Mr. Davis, to approve the above referenced request, subject to the following conditions:

- 1) full compliance with all municipal codes and ordinances.**

The matter carried unanimously.

#5721

Case #ZON2011-02567)

Patricia D. Jackson

2667 Government Boulevard

(South side of Government Boulevard Service Road, 335'± West of Kreitner Street)

Use Variance to allow an automotive detail shop and body shop in an R-1, Single-Family Residential and B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of B-3, Community Business District for an automotive detail shop and body shop.

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

Bobby McBride, Rowe Surveying, spoke on behalf of the applicant and asked that the matter be withdrawn.

Mr. Palombo asked if the Board would move to deny the matter for procedural purposes.

The Chair stated the applicant had asked to withdraw the matter and asked for a motion to deny.

A motion was made by Mr. Guess, with second by Mr. Metcalf, to approve the above referenced request.

The matter carried unanimously.

OTHER BUSINESS:

Mr. Guess advised the Board he had asked Mr. Lawler to look into what it would take to make the Board of Zoning Adjustment a seven voting member board and it appeared it would take an act of the State Legislature to do so. Mr. Guess advised he would draft a letter to one of the area's legislators to see what could be done to accomplish such. He believed having the Board consist of seven voting members would give better attendance to the meeting and it would be in the best interest of the City.

Mr. Palombo asked if it was Mr. Guess' belief that the supernumerary members did not attend because they had no "stake" in the matter.

Mr. Guess responded it was his belief those members did not feel a reason to be there at most meetings as based upon his memory over the past year, there were only two or three times supernumerary members had been called on to vote.

Mr. Metcalf noted there had also been times when there were issues of having a quorum to vote on matters due to the lack of attendance of the supernumerary members.

Mr. Palombo stated he could see the positive and negative of having a seven member board.

Mr. Metcalf asked what could be negative in having the addition voting members.

Mr. Palombo advised if there were seven required votes it would take four votes in the affirmative to approve a matter as opposed to the current three. He also noted it would take five members present to have a quorum and was not sure it was possible.

Mr. Guess asked if there were any Board members who opposed his pursuing the matter of having seven voting Board members.

There was no opposition.

There being no further business, the meeting was adjourned.

APPROVED: November 5, 2012

/s/ William Guess, Chairman of the Board

jsl