

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF DECEMBER 1, 2008 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

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

MEMBERS ABSENT

Reid Cummings, Chairman
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

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

CALL TO ORDER:

Mr. Guess was acting Chair and 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 voting and called the meeting to order.

HOLD OVERS:

5505/5491

(Case #ZON2008-02528)

Jonathan H. & Kristen W. Rudolph

206 Ridgewood Place

East side of Ridgewood Place, 210'+ North of The Cedars

Side Yard Setback and Combined Side Yards Variances to allow an addition to an existing single-family dwelling to within 5.6' of a side property line with a combined side yard setback of 15.6' in an R-1, Single-Family Residential District; the Ordinance requires a minimum 8' side yard setback with a combined side yard setback of 20' 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.

Jonathan Rudolph, 206 Ridgewood Place, Mobile, AL, spoke on behalf of himself and his wife and made the following points in favor of the variance:

- A. there was an over 200 year old live oak tree located on the property that was protected by the City's tree ordinance; and,

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- B. in an effort to protect the health and safety of the tree, the designs had been shifted as far to the left as possible.

The Chair asked if there were any more questions for the applicant.

Mr. Guess asked if Urban Forestry had investigated the tree and was told by Mr. Palombo that they had not and added the staff had received no documentation for any type of tree professional regarding the age and/or status of the tree in question. He added that should the Board feel led to approve the matter, the staff would like to add the condition of gutters and downspouts.

The Chair asked if there were any in attendance who wished to voice their opposition to please do so at that time. 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 **Side Yard Setback and Combined Side Yards Variances to allow an addition to an existing single-family dwelling to within 5.6' of a side property line with a combined side yard setback of 15.6' in an R-1, Single-Family Residential District** at the above referenced location, subject to the following condition:

- 1) **installation of gutters and downspouts.**

The motion carried unanimously.

PUBLIC HEARINGS:

#5511

(Case #ZON2008-02575)

Marc Scott Whitehead

4913 Carmel Drive North

South side of Carmel Drive North, 225' ± West of Pine Court

Side Yard and Rear Yard Setback Variances to allow the construction of a carport within 3.25' of a side property line and 7.5' of a rear property line in an R-1, Single-Family Residential District; the Ordinance requires an 8' side yard setback and an 8' rear yard setback 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.

Marc Whitehead, 4913 Carmel Drive North, Mobile, AL, spoke on his own behalf and made the following points in favor of the requested variance:

- A. they are trying to cover an area of the currently driveway to create a carport on the property;
- B. they had determined that if the driveway were shifted over, then the second car would not be able exit the property as it was not possible to make the turn if the carport were located where it would be required;
- C. regarding the back line, if the carport were pushed forward, the same issue would be encountered; and,

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- D. they had considered moving the carport to the backyard, however, that ruined the aesthetics of that part of the yard.

Mr. Palombo made the Board aware that the applicant had a 7.5 foot easement in the rear which could limit him from putting the carport further to the rear setback line. He added that the staff would like to see the provision of gutters and downspouts as a condition, as well as seeking building code answers regarding the possible need for a firewall as a condition added, should the Board move to approve the matter,.

The Chair asked if there were any more questions for the applicant. 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 **Side Yard and Rear Yard Setback Variances to allow the construction of a carport within 3.25' of a side property line and 7.5' of a rear property line in an R-1, Single-Family Residential District** at the above referenced location, subject to the following conditions:

- 1) **installation of gutters and downspouts; and,**
- 2) **compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5512

(Case #ZON2008-02723)

Tommy Praytor

4742 Airport Boulevard

North side of Airport Boulevard, 425' ± East of Bit and Spur Road

Use, Access, Landscaping and Tree Planting Variances to allow a specialty gift shop in a B-1, Buffer Business District with 10' wide one-way access drives, no on-site landscaping, and no on-site tree plantings; the Ordinance requires B-2, Neighborhood Business District, for a specialty gift shop with 12' minimum one-way access drives, 12% on-site landscaping with 60% of the 12% to be within the front 25', and two frontage and six perimeter over-story tree plantings.

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.

Tommy Praytor, 4218 Michael Boulevard, Mobile, AL, spoke on his own behalf and gave the following points for approval:

- A. there was a request to put in a collectible shop at the 4742 Airport Boulevard location;
- B. the back corner has been functionally obsolete since the building was built several years ago, with the only time it was utilized being when they started the collectible store in the mid-1980's and that use continued until the store was moved to Michael Boulevard in 1998;and,
- C. the family member who ran the store on Michael Boulevard recently passed away and it was the family's desire to continue the enterprise but

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wished to bring it back to its original location and thus consolidate all family business operations on the one site.

Mr. Guess asked if the building, with the exception of the section previously used as the collectible store, had been in continued use and was told yes. He then asked for clarification regarding the request from the staff.

Mr. Palombo explained that the Zoning Ordinance did not allow for retail sales in a B-1, Buffer Business District, and by moving the shop from 4742 Airport Boulevard to the Michael Boulevard address, the space lost its grandfathered status with regard to use.

Mr. Whistler stated that if the Board was leaning toward approving the matter, the staff would like such approval to be subject to the conditions of providing a small frontage landscaped area to accommodate two frontage overstory tree plantings and that the gift shop use be limited to the area of the previous gift shop.

Mr. Praytor noted that all of the access to the building is at the front and to lose the parking space suggested by staff would hinder business. He also noted there was also a very large, 100 year old live oak located next door to their property whose canopy extended across the left hand side of his property. He offered to put the green space on the site, but felt more comfortable doing so along the back of the site by moving the parking spaces closer to Airport Boulevard.

The Chair asked if there were any more questions for the applicant. 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 **Use, Access, Landscaping and Tree Planting Variances to allow a specialty gift shop in a B-1, Buffer Business District with 10' wide one-way access drives** at the above referenced location, subject to the following conditions:

- 1) **coordination of necessary landscaping and tree planting with the Planning Staff of the city's Urban Development department; and,**
- 2) **limiting the gift shop use to that of the area of the previous on-site gift shop.**

The motion carried unanimously.

#5513/4981

(Case #ZON2008-02741)

James L. Williams, Jr.

2058 Old Government Street

Northeast corner of Old Government Street and Glenwood Street

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Side Yard Setback Variance to allow the construction of a master bedroom and porch addition to a single-family residential dwelling within 10' of a side street property line on a 53.8' wide lot in an R-1, Single-Family Residential District; the Ordinance requires a 16.1' side street yard setback for a 53.8' wide lot in an R-1, Single-Family Residential 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.

Kevin Uteg, 1005 Caroline Avenue, Caroline Contracting, spoke on behalf of the applicant and made the following points in favor:

- A. proposed to create 650 square feet of living space and 250 square feet of porch to be attached to the back portion of the house facing Glenwood Street; and,
- B. based upon the size of the yard, the placement of the house, the only way to enlarge the home and create that necessary space will infringe on the setback line along that side.

Mr. Palombo noted that the addition was in line with the existing structure so there would not be any encroachment of that setback that has not already been represented.

The Chair asked if there were any more questions for the applicant. 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 **Side Yard Setback Variance to allow the construction of a master bedroom and porch addition to a single-family residential dwelling within 10' of a side street property line on a 53.8' wide lot in an R-1, Single-Family Residential District** at the above referenced location, subject to the following condition:

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

The motion carried unanimously.

#5514/5448

(Case #ZON2008-02743)

Manticore Properties, Inc.

109 Bradford Avenue

East side of Bradford Avenue, 300'± North of Government Street

Use, Access, Parking/Maneuvering, and Landscaping /Tree Planting Variances to allow a four-unit apartment house with a 7' wide drive, undesignated parking/maneuvering area,

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and no landscaping or tree plantings in an R-1, Single-Family Residential District; Multi-Family dwellings are not allowed in an R-1, Single-Family Residential District, a 24' wide drive and a designated parking/maneuvering area is required, and three frontage trees and frontage landscaping are required for R-3 use.

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.

Jay Altmayer, representing Manticore Properties, spoke on behalf of the request and made the following points in its favor:

- A. the building and its construction as a multi-family dwelling pre-dates the Zoning Ordinance;
- B. there are two very large trees located on the site which would make it almost impossible to plant the trees as required by the City's tree ordinance; and,
- C. the existing driveway has never been moved and exists behind the Walgreen's located next door and is the only access to the property so there is no room for a setback there as well.

Mr. Whistler noted that based upon the previous site plan, the location would be short one of the required parking spaces, so it was requested that if the Board were leaning toward approving the matter that the condition parking be in compliance with the Zoning Ordinance as was practicable.

The Chair asked if there were any in attendance who wished to speak in opposition to do so at that time.

Ruby Tadlock, 107 Bradford Avenue, Mobile, AL, said there were issues with the residents of 109 Bradford Avenue parking on the street and blocking the driveways of other area residents and that the street flooded as well.

Mr. Ladner responded that the neighbor could get the police to tow vehicles or that the owner should discuss this with his tenants to prevent the problem.

Mr. Altman stated that information would be outlined in the tenant's lease as well.

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

A motion was made by Mr. Coleman, with second by Mr. Riley, to approve the request for **Use, Access, Parking/Maneuvering, and Landscaping /Tree Planting Variances to allow a four-unit apartment house with a 7' wide drive, undesignated parking/maneuvering area, and no landscaping or tree plantings in an R-1, Single-Family Residential District** at the above referenced location, subject to the previous following conditions:

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- 1) **parking area must be in the rear and be in full compliance with the parking requirements of the Ordinance as is practicable; and,**
- 2) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5515/5434

(Case #ZON2008-02746)

Halstead LLC

1234 and 1248 Hillcrest Road

Northwest corner of Hillcrest Road and Grelot Road

Site Variance to allow the vehicle stacking area to be in the drive aisle for a pharmacy drive-thru window in a B-3, Community Business District; the Ordinance requires three queuing spaces for a drive-thru window stacking area to be out of a drive aisle in a B-3, Community Business 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.

John Vallas, 2308 Ashton Place Avenue, Mobile, AL, spoke on behalf of the development and made the following points for approval:

- A. the unnecessary hardship is the ordinance requires three cars in stacking lanes, and it is felt that the ordinance was most created to solve stacking issues associated with fast food restaurants and single teller bank drive-thru windows;
- B. the proposed use is a pharmacy with double drive-thru windows, thus reducing the need for structured stacking as created by the Zoning Ordinance;
- C. there are numerous easements which dissect the property creating hardships in the use of the property when related to the three car stacking requirement; and,
- D. there is a shared easement with the adjacent mini-storage, however, there are other access points to the site that are not associated with the mini-storage.

Mr. Ladner asked if the site would do away with one of the curb cuts currently there and was advised the site would be reduced by one curb cut. He also expressed Traffic Engineering's concern was the site's proximity to the intersection at Grelot Road.

Mr. Vallas stated they had met with Mr. Metzger of Traffic Engineering and the applicant had agreed to the condition of being subject to Traffic Engineering approval.

It was also noted that the project as a whole would be before the Planning Commission, so it would have to pass several reviews before full and final approval was granted.

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The Chair asked if there were any more questions for the applicant. Hearing none, the Chair asked if there were any in attendance in opposition to the matter to please speak at that time.

The following people spoke in opposition to the requested variance:

- Bill Barnhill, 5 Signal Hill Road, Spanish Fort, AL, spoke on behalf of the owners of Grand Slam Storage; and,
- Craig Williams, owner of 6414 Grelot Road, Mobile, AL.

They made the following points against the variance:

- A. concern over the easement as well as how the stacking would work and its impact on the adjacent site's traffic flow due to the fact that occasionally they do have large 18-wheeler trucks to the site;
- B. when Grand Slam Storage was initially planned, the owners depended upon the existing easement, which went just to the south of the proposed CVS site and out to Hillcrest Road, with the site's other ingress/egress being on Grelot Road, which is a difficult point;
- C. felt there would be problems getting their trucks out on the north side with the CVS at that location;
- D. concern over the known easement/shared access that is in the front of 6414 Grelot Road and that its access by the proposed pharmacy would increase traffic on that property; and,
- E. concern regarding the drainage on that property.

Mr. Vallas stated the easements were reciprocal easements so to limit access by one party would limit themselves as well.

Mr. Riley asked the volume of trucks involved and the frequency they would travel across the property.

Mr. Barnhill stated he felt the issue was not one of volume or frequency with the large trucks but rather that they simply be able to have access at the time it was needed.

A motion was made by Mr. Coleman, with second by Mr. Graham, to approve the request for **Site Variance to allow the vehicle stacking area to be in the drive aisle for a pharmacy drive-thru window in a B-3, Community Business District** at the above referenced location, subject to the previous following conditions:

- 1) **completion of the subdivision process;**
- 2) **completion of Planned Unit Development (PUD) and Development applications; and,**
- 3) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

OTHER BUSINESS:

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There being no further business, the meeting was adjourned.

APPROVED: April 5, 2010

Chairman of the Board

/jsl