

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF FEBRUARY 9, 2004 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Reid Cummings, Chairman  
Richard Collier  
Rev. Clarence Cooke  
H. Lamar Lee  
Stephen J. Davitt

**MEMBERS ABSENT**

Edley Hubbard (S)  
Vandalyn Pierre

**STAFF PRESENT**

Margaret Pappas, Planner II  
Frank Palombo, Planner I  
Rose Murphy, Secretary II

**OTHERS PRESENT**

David Roberts, Traffic Engineering  
David Daughenbaugh, Urban Forestry  
Wanda Cochran, Assistant City Attorney

**NOTE:** Due to a lack of a quorum to conduct business, the February 2, 2004, meeting was rescheduled to February 9, 2004 at the request of Mr. Cummings, Mr. Collier, and Rev. Cooke.

Chairman Cummings noted the number of members present constituted a quorum and called the meeting to order.

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

**APPROVAL OF MINUTES:**

A motion was made by Mr. Davitt and seconded by Rev. Cooke to approve the minutes of the meeting of January 12, 2004, as submitted. The motion carried unanimously.

**EXTENSION:**

**#5190**

**(Case #ZON2003-01387)**

**Aimwell Missionary Baptist Church**

**500 Earle Street**

(Northwest corner of North Lawrence Street and Earle Street)

**Side Yard (street) Setback and Parking Ratio Variances to allow a 5,730 square foot two-story addition to an existing church facility within ten-feet (10') of the front property line and providing seventy-three (73) on-site parking spaces; a minimum side yard setback of 20' is required, along a side street in R-3, Multi-Family Residential Districts and eighty-seven (87) on-site parking spaces are required for a church with seating capacity of three hundred forty-seven (347).**

**February 9, 2004**

*The plan illustrates the existing structures, along with the proposed structure and asphalt paving.*

No one was present to represent the applicant.

A motion was made by Mr. Davitt and seconded by Mr. Collier to holdover the request for a six-months extension until the March 1, 2004, meeting.

The motion carried unanimously.

**PUBLIC HEARINGS:**

**#5223**

**(Case #ZON2003-02949)**

**Delrick Pettway**

**2166 Wagner Street**

(Northeast corner of Wagner Street and Summerville Street)

**Use and Substandard Maneuvering Variances to allow a convenience store with a 20' maneuvering area in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District and a 24' wide area for maneuvering.**

*The site plan illustrates the existing buildings, concrete, and landscaping along with the proposed parking spaces and proposed landscaping.*

Mr. Delrick Pettway of 2166 Wagner Street, applicant, stated he was requesting a variance for operation of a convenience store at the intersection of Summerville and Wagner Streets.

Mr. Cummings asked if the building was currently occupied.

Mr. Pettway said no.

There was no one present in opposition.

In discussion, it was noted that the structure was previously used as a convenience store, but was vacant since 1999 and lost non-conforming status.

Rev. Cooke noted that the staff report referred to the proposed hours of operation as a hindrance. He felt the applicant would be agreeable to limiting them.

Consideration was given to the number of parking spaces. Mr. Roberts stated that Traffic Engineering would request parking be limited to six spaces with wheel stops for delineation.

A motion was made by Rev. Cooke and seconded by Mr. Collier to approve the request for Use and Substandard Maneuvering Variances to allow a convenience store with a 20' maneuvering area in an R-1, Single-Family Residential District subject to the following conditions:

1. that hours of operation be limited to 6:00 a.m. to 10:00 p.m.;

February 9, 2004

2. that a minimum of six (6) parking spaces be provided and delineated with wheel stops; and
3. provision of a six-foot high privacy fence along the North and East property lines.

The motion carried unanimously.

**#5224**

**(Case #ZON2003-02977)**

**Oakleigh Venture Revolving Fund**

**965 Savannah Street**

(Southeast corner of Savannah Street and Charles Street)

**Side Yard and Site Coverage Variances to allow an addition within five feet of the side street property line and to allow 37% site coverage in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 12' 10" minimum side yard setback on a 50' wide lot and 35% maximum site coverage in an R-1, Single-Family Residential District.**

*The site plan illustrates the existing buildings, walks, drives, and fencing along with the proposed building additions.*

Mr. Douglas Kearley, Architect for the proposed project, stated that he concurred the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Lee to approve the request for Side Yard and Site Coverage Variances to allow an addition within five feet of the side street property line and to allow 37% site coverage in an R-1, Single-Family Residential District subject to the following conditions:

- 1) the approval of the Architectural Review Board prior to the issuance of any permits; and
- 2) full compliance with all codes and ordinances.

The motion carried unanimously.

**#5225**

**(Case #ZON2004-00017)**

**Bugmaster Exterminators**

**619 Azalea Road**

(North side of Azalea Road, 1,052' ± West of Village Green Drive)

**Use Variance to allow a pest control service in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of a B-3, Community Business District.**

*The site plan illustrates the existing landscaping and buildings along with the proposed buildings and parking spaces.*

**February 9, 2004**

Mr. Frank Alardo, owner of Bugmaster Exterminators, stated that they were requesting a Use Variance for property adjoining their existing site, which had a Use Variance for 19+ years. They wanted to expand their current operation by constructing a new building.

Mr. Jerry Byrd of Byrd Surveying, Inc. stated that they wanted to maintain the existing variance on the adjoining property until a certificate of occupancy was issued for the new facility.

Mr. Cummings asked the location of the existing facility.

Mr. Byrd said it was to the west.

There was no one present in opposition.

Ms. Pappas said there were issues with regard to the proposed curb cut, and its affect on existing trees in the right-of-way.

Mr. Byrd said they had communicated with Urban Forestry about the location of the curb cut in order to retain the trees in the right-of-way.

Mr. Cummings noted that the site adjoined R-3 property and asked if there was sufficient vegetation for buffering.

Mr. Byrd said the R-3 property was approximately 60' to 70' lower than the proposed site, with vegetation growing on the bank. He went on to say that the Zoning Ordinance required a 6' wood privacy fence.

A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for a Use Variance to allow a pest control service in a B-2, Neighborhood Business District subject to the following conditions:

1. provision of a 6' high wooden privacy fence along the North property line; and
2. that the location of the curb cut be approved by Urban Forestry.

The motion carried unanimously.

**#5226/810**

**(Case #ZON2004-00019)**

**Timothy C. Wells**

**1751 Dauphin Street**

(Southwest corner of Dauphin Street and Hannon Avenue)

**Use Variance to amend a previous variance to allow an employment service in an R-1, Single-Family Residential District; an employee service requires a minimum of B-1, Buffer Business District.**

*The site plan illustrates the existing building, concrete, and trees along with the proposed parking spaces, and landscaping.*

**February 9, 2004**

Mr. Tim Wells, the applicant, stated that he was requesting a variance to use the subject property as an employment recruitment office for legal, medical, and engineering firms. He went on to say that the subject property was previously used as a legal office and medical office. Mr. Wells said he had met with neighbors, who requested that a buffer be placed along an easement at the rear of the property. He agreed to do that and to place a curb cut on Hannon Avenue. He also concurred with staff recommendations.

Mr. Collier asked the number of clients to be served in a day.

Mr. Wells said approximately 5 to 6. He said that clients would come to the site for training purposes.

Ms. Jackie Culberson of 8 Hannon Avenue stated that she represented concerned citizens in the immediate area. She went on to say that some of their concerns had been addressed, but they felt two concerns needed to be addressed for the record. One, they requested that a buffer be constructed on the south property line to eliminate access to the parking lot from the existing easement.

Mr. Cummings noted that the area referred to as an easement by Mr. Wells and Ms. Culberson was actually an alley under the control of the City. It was not a private throughway.

Ms. Culberson stated that their second request was a for curb cut on Hannon Avenue.

There was no one present in opposition.

A motion was made by Mr. Lee and seconded by Rev. Cooke to approve the request for a Use Variance to amend a previous variance to allow an employment service in an R-1, Single-Family Residential District subject to the following conditions:

- 1) limited to a private employment service (as applied for) no public or day labor services;
- 2) compliance with landscaping and trees to the greatest degree practicable, to be coordinated with Urban Forestry;
- 3) the parking lot be paved, striped, with bumper stops installed;
- 4) any exterior improvements be approved by the Architectural Review Board;
- 5) full compliance with all municipal codes and ordinances;
- 6) provision of a 6' high wooden privacy fence along the South property line; and
- 7) that the curb cut be located on Hannon Avenue and coordinated with Urban Forestry. (access to the alley is denied).

The motion carried unanimously.

**#5227**

**(Case #ZON2004-00021)**

**Hotel Company of Mobile, LLC. (Don Williams, Agent)**

**(Southeast corner of Western America Circle and Western America Drive)**

**Height Variance to allow a 62' tall hotel in a B-3, Community Business District; a maximum height of 45' is allowed in a B-3, Community Business District.**

**February 9, 2004**

*The plan illustrates the proposed structure and parking.*

Mr. Don Williams of Williams Engineering represented the applicant and stated that they were requesting a variance to allow a 62' tall structure in a B-3 District. He went on to say that the proposed structure was compatible with the surrounding area. He identified several structures in the area, which were higher than 45 feet. The main body of the proposed structure was to be 54' high with a 6' parapet to shelter rooftop equipment.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Davitt to approve the request for a Height Variance to allow a 62' tall hotel in a B-3, Community Business District.

The motion carried unanimously.

**#5228**

**(Case #ZON2004-00028)**

**Enoch Aguilera (Don Williams, Agent)**

**1118 Government Street**

(North side of Government Street, 476'± West of South Hallet Street)

**Use and Substandard Access Variances to allow a bed and breakfast, with a 12' wide driveway in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-1, Buffer Business with Planning Approval and a 24' wide driveway.**

*The site plan illustrates the existing buildings, concrete, and landscaping along with the proposed asphalt drive, parking, and proposed sidewalk.*

Mr. Don Williams of Williams Engineering represented the applicant and stated they were requesting a variance to allow a bed and breakfast in an R-1 Single Family District. They felt this area was well suited for a bed and breakfast. Mr. Williams went on to say that they had obtained approval from the Architectural Review contingent upon moving two parking spaces proposed for the front area of the property. They agreed to move those two spaces to the rear of the property to maintain the required 6 parking spaces. He felt a large Live Oak tree would have to be removed if they were required to construct a 24' wide driveway.

Mr. Collier asked the makeup of the area on the north side of the property.

Mr. Williams said it was open grass. They planned to install pool in that area.

Mr. Cummings asked how deliveries and trash pickup would be accomplished.

Mr. Williams said it would be via the 12' wide driveway. He did not anticipate that there would be a need for deliveries and a dumpster pad was not required.

Ms. Pappas noted that the proposed parking would comply with regulations if there was one-way circulation all the way around.

Mr. Cummings asked what licenses and/or permits were required.

**February 9, 2004**

Mr. Williams said a business license, and Health Department and Fire Department approval.

Ms. Christine Taylor, the previous owner of the subject property and the property to the east, stated that it was their desire to have the structure maintain the historic nature. She felt it was an appropriate use for the structure.

Mr. Collier asked if Ms. Taylor had plans to build on the vacant lot.

Ms. Taylor said no. They wanted to retain ownership for possible future use by the bed and breakfast.

Mr. Cummings asked if there was a possibility that an agreement could be reached for use of the vacant lot as access to the bed and breakfast.

Ms. Taylor said that issue had been raised, but no action was taken.

Mr. Williams said the applicant was opposed to a requirement to enter an agreement for use of the vacant lot at this time. He felt the area available on the subject property was sufficient for six parking spaces and maneuverability.

There was no one present in opposition.

Extensive consideration was given to ingress, egress, and maneuverability on the property for fire and public safety purposes. It was the consensus of opinion that vehicles would not be impeded in accessing or maneuvering about the property.

A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for Use and Substandard Access Variances to allow a bed and breakfast and a 12' wide driveway in an R-1, Single-Family Residential District at the above referenced location subject to the following conditions:

1. provision of six (6) parking spaces; and
2. compliance with Architectural Review Board approval.

The motion carried unanimously.

**#5229**

**(Case #ZON2004-00092)**

**Rebecca O. Ellis**

**279 Larkspur Street**

(East side of Larkspur Street, 343'± North of Weatherford Avenue)

**Use Variance to allow a second dwelling (with a kitchen) in a R-1, Single-Family Residential District; the Zoning Ordinance allows only one dwelling (with one kitchen) in a R-1, Single-Family District.**

*The plan illustrates the existing structure and drive, along with the proposed addition and drive.*

**February 9, 2004**

Ms. Rebecca Ellis, the applicant, stated that the purpose of the variance request was to allow the addition of a second kitchen to her existing home. Ms. Ellis' elderly father would occupy the addition, and she wanted him to maintain his independence.

Sister Carolyn Oberkirch, sister of the applicant, stated that the family was attempting to plan for the future care of the father, while allowing Ms. Ellis to maintain her privacy in her own home. Sister Carolyn lived nearby and felt that this would enable her to lend assistance to the father's care.

Mr. Collier stated that the addition of a kitchen to an existing dwelling classified the addition as an apartment or duplex, which could be leased as such in the future. This was the primary issue for consideration by the Board.

Ms. Ellis noted that there was a duplex at the end of Larkspur Street.

There was no one present in opposition.

A brief discussion centered on whether a hardship existed for the property that prevented it from being used as a single-family residence. No hardship could be identified.

A motion was made by Mr. Collier and seconded by Mr. Davitt to deny the request for a Use Variance to allow a second dwelling (with a kitchen) in a R-1, Single-Family Residential District.

The motion carried. Mr. Collier, Mr. Cummings, Mr. Davitt and Rev. Cooke voted aye. Mr. Lee voted nay.

**OTHER BUSINESS:**

**Discussion regarding meeting format:**

There was a discussion regarding meeting format. Mr. Cummings proposed to change the format for meetings from the current Public Hearing of all cases followed by an Executive Session; to hearing and ruling on each case immediately. It was decided to implement the change for a three-months trial period.

**Election of officers:**

Mr. Davitt nominated Mr. Cummings and Mr. Collier to remain chairman and vice-chairman respectively.

Mr. Lee seconded the nomination.

The motion carried unanimously.

Ms. Pappas announced that the Planning Commission would hold a Public Hearing on an Historic District Overlay at its March 19, 2004, meeting. If the overlay is adopted, the Board of Zoning Adjustment would hear fewer cases involving setback requirements in Historic Districts.



**February 9, 2004**

There being no further business, the meeting was adjourned.

**APPROVED:**            March 1, 2004

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Chairman of the Board

/rm