

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF JULY 7, 2008 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

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

MEMBERS ABSENT

Russell Riley*
J. Tyler Turner*

STAFF PRESENT

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

OTHERS PRESENT

John Lawler, city attorney
David Roberts, Traffic Engineering

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 and called the meeting to order.

APPROVAL OF MINUTES:

Mr. Cummings moved, with second by Mr. Coleman, to approve the minutes from the following, regularly held, meeting of the Board of Zoning Adjustment:

- July 2007

The motion carried unanimously.

HOLDOVERS:

#5474/3876/3826

(Case #ZON2008-01395)

Johnita & Martyce Allen

501 Dauphin Island Parkway

Southeast corner of Dauphin Island Parkway and Duncan Street

Use, Landscaping/Tree Planting, Parking Ratio, and Access Maneuvering Variances to amend a previously approved Use Variance to allow a beauty shop in an R-1, Single-Family Residential District, with 6.4%± site landscaping/tree planting, 6 parking spaces for 2018 square feet of gross floor area, and nose-in/back-out parking; beauty shops require a minimum B-2, Neighborhood Business District, with 12% minimum landscaping/tree planting area, 7 parking spaces are required for 2018 square feet of gross floor area, and all access/maneuvering is required to be on site.

Martyce Allen, 317 Dexter Avenue, Mobile, AL, spoke on his own behalf to request that the property be converted to a beauty shop, even though it is in a R-1, single-family residential district. He added that he and his wife had brought the building in line with the necessary improvements for a beauty shop, however, they were unable to provide all 7 parking spaces required and asked that they be granted the variance of only having 6.

The Chair advised the applicant that the staff had recommended approving the matter and then read the following for the record and the applicant's benefit:

- A. modifications of the front parking space to provide an 8 foot 6 inch minimum stall width;
- B. provision of as much landscaping and tree planting compliance as practicable, to be coordinated with the Urban Development's Planning Section;
- C. provision of a 6 foot high wooden privacy fence along the south and east property lines, where the site abuts residentially used property, and to be no higher than 3 feet within the required street setbacks;
- D. limiting the garage storage building to storage use only, with no offices, customer service, or dwelling use;
- E. modification of the two parking stalls between the garage storage building and Duncan Street to a minimum width of 8 feet 6 inches each;
- F. relocation of the freestanding sign from the Dauphin Island Parkway right-of-way to a compliant location; and,
- G. full compliance with all other municipal codes and ordinances.

The applicant asked for the opportunity to speak with staff for clarification regarding the relocation of the signage and the location and height of the fence.

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Mr. Palombo gave Mr. Allen some options regarding the location of a 3 foot monument sign, as well as providing detail on the fence requirements.

Mr. Allen stated they were in agreement with the recommended conditions.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Guess, to approve the request for **Use, Landscaping/Tree Planting, Parking Ratio, and Access Maneuvering Variances to amend a previously approved Use Variance to allow a beauty shop in an R-1, Single-Family Residential District, at the above referenced location, with 6.4%± site landscaping/tree planting, 6 parking spaces for 2018 square feet of gross floor area, and nose-in/back-out parking; beauty shops require a minimum B-2, Neighborhood Business District, with 12% minimum landscaping/tree planting area, 7 parking spaces are required for 2018 square feet of gross floor area, and all access/maneuvering is required to be on site, subject to the following conditions:**

- 1) **modification of the front parking space to provide an 8 feet 6 inch minimum stall width;**
- 2) **provision of as much landscaping and tree planting compliance as practicable, to be coordinated with the Urban Development's Planning section;**
- 3) **provision of a 6 feet high wooden privacy fence along the south and east property lines, where the site abuts residentially used property, and to be no higher than 3 feet within the required street setbacks;**
- 4) **limiting the garage storage building to storage use only, with no offices, customer service, or dwelling use;**
- 5) **modification of the two parking stalls between the garage storage building and Duncan Street to a minimum width of 8 feet 6 inches each;**
- 6) **relocation of the freestanding sign from the Dauphin Island Parkway right-of-way to a compliant location; and,**
- 7) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

PUBLIC HEARINGS:

#5475

(Case #ZON2008-01211)

Amity Missionary Baptist Church

2451 St. Stephens Road

South side of St. Stephens Road, extending from Strange Avenue to Como Street, and Southwest corner of St. Stephens Road and Como Street

Off-Site Parking and Parking Ratio Variances to allow 27 of the proposed 63 parking spaces for a 255-seat church to be off-site; the Zoning Ordinance requires 64 on-site parking spaces for a 255-seat church.

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Michael Curry, member of Amity Missionary Baptist Church, spoke on behalf of the church and made the following points in favor of approving the variance:

- A. the church had applications for subdivision, rezoning, and planned unit development in to be heard by the Planning Commission and those were scheduled for the July 24, 2008, meeting;
- B. the lots were small and oddly shaped, so it had been a challenge to produce 63 of the 64 required spaces on the sites; and,
- C. there was no known opposition to the church in neighborhood and the church expected to be an improvement to the character of the area.

Mr. Palombo advised the Board that though the size and shape of the two lots did cause some issue with the creation of parking spaces, the staff felt that the Board should only address the issue of parking ratio and leave the issue of off-site parking to the Planning Commission. Its decision regarding the Planned Unit Development including that matter would be heard on July 24, 2008.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Guess, to approve the above requested variance for **Off-Site Parking and Parking Ratio Variances to allow 27 of the proposed 63 parking spaces for a 255-seat church to be off-site; the Zoning Ordinance requires 64 on-site parking spaces for a 255-seat church.**

The motion carried unanimously.

#5476

(Case #ZON2008-01385)

Elijah House, Inc. (Michael L. Thomas, Agent)

1867 Duval Street

South side of Duval Street, at the South terminus of Murray Hill Court [private street]

Parking Ratio Variance to allow three parking spaces for a 40-bed outreach housing facility; the Zoning Ordinance requires ten parking spaces for a 40-bed outreach housing facility.

The Chair announced the matter and no one appeared to address the Board on its behalf.

After some discussion, a motion was made by Mr. Cummings, with second by Mr. Coleman, to **holdover this application until the August 4, 2008, Board of Zoning Adjustment meeting**, to allow the applicant the opportunity to address the Board regarding the matter.

The motion carried unanimously.

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#5477/5458/4523

(Case #ZON2008-01394)

Downtowner and Michael Joint Venture

North side of Michael Boulevard, 180'± West of Downtowner Boulevard, and extending North to Downtowner Boulevard, 176'± North of Michael Boulevard

Off-Site Parking Variance to amend a condition of a previously approved variance to allow 284 off-site (paved) parking spaces on an office building site in a B-2, Neighborhood Business District for post-disaster agent overflow parking for a near-by insurance company; the Zoning Ordinance requires all parking to be on-site in a B-2, Neighborhood Business District.

The following people addressed the Board:

- David Deihl, Engineering Development Services, Inc.; and,
- Pete Jones, Pilot Catastrophe, 1055 Hillcrest Road, Mobile, AL.

They made the following points in favor of amending the previously approved variance:

- A. the site now housed a two-story office building which required 44 parking spaces, which reduced the overall “off-site” parking spaces to 284;
- B. with the existence of an “on-site” building it was expected that the possibility of “cut through” traffic was greatly diminished, thereby decreasing the need for a card controlled gate to the property; and,
- C. it was believed that the gate would cause unnecessary back up to the flow of traffic on Michael Boulevard.

Mr. Palombo agreed that the addition of an office building had improved conditions on the site, however, as the building was located at one of the far corners, “cut through” traffic could still pose a problem and the staff would like to see the gate remain.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Guess, to approve the request for an **off-site parking variance to amend a condition of a previously approved variance to allow 284 off-site (paved) parking spaces on an office building site in a B-2, Neighborhood Business District for post-disaster agent overflow parking for a near-by insurance company; the Zoning Ordinance requires all parking to be on-site in a B-2, Neighborhood Business District, for the above referenced address.**

The motion carried unanimously.

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#5478
(Case #ZON2008-01522)
Tower Ventures V, LLC

2501 Government Boulevard

South side of Government Boulevard, 555'± East of Eslava Creek Parkway

Height and Setback Variances to allow an 150' Monopole Telecommunications Tower, setback 35' from a lease parcel line; the maximum allowable height is 45', and a 150' tower must be setback at least 150' from a lease parcel line in a B-3, Community Business District.

Lou Katzerman, Tower Ventures, V, LLC, 4091 Viscount Avenue, Memphis, TN, spoke on behalf of the applicant and made the following points in favor of approving the matter:

- A. the tower, being located at the shopping center which was zoned B-3, required approval from the Planning Commission and an application for the same had been made and was scheduled to be heard on July 24, 2008;
- B. the tower is necessary as there are gaps in coverage, especially "in-building" coverage, due to the height and location of the nearest tower;
- C. there are no other towers in the area that are physically capable of handling the equipment necessary to improve area coverage, making the construction of the tower necessary; and,
- D. based upon the size of the parcel and the necessary design issues, the applicant will put in as much of the necessary landscaping as possible, as well as provide the necessary parking required.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the request for **Height and Setback Variances to allow an 150' Monopole Telecommunications Tower, setback 35' from a lease parcel line; the maximum allowable height is 45', and a 150' tower must be setback at least 150' from a lease parcel line in a B-3, Community Business District, for the above referenced address, subject to the following condition:**

- 1) **the provision that the tower be of a monopole design.**

The motion carried unanimously.

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#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.

The Chair advised that the applicant had requested that the matter be held over and that he would entertain a motion of the same at that time.

Hearing no opposition or discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to **hold the application over until the August 4, 2008, Board of Zoning Adjustment meeting.**

The motion carried unanimously.

#5480/133
(Case #ZON2008-01598)
Thomas Ralph Townsend, III
186 Williams Street

Northwest corner of Williams Street and Hunter Avenue
Side Street Yard and Rear Yard Setback Variances to amend a previously approved variance to allow the expansion of a garage within 12' of a side street property line and within 3.8' of a rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 20' side street yard setback and an 8' rear yard setback for structures in an R-1, Single-Family Residential District.

Thomas R. Townsend, 186 Williams Street, spoke on his own behalf and made the following points for approving the matter:

- A. the property has been granted a variance in the 1950's so that a garage could be built on the property, however vehicles have become larger since that time, so the garage is now too small to park inside;
- B. the applicant would like to be able to park all three (3) of his vehicles and a utility trailer in the garage in an effort to protect them;
- C. to build the garage in compliance with the rear setback lines would mean the opening of the front of the new portion of the building would not align with the opening of the current building;

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- D. Hunter Street dead ends right past his property and currently he uses the street to park his vehicles; and,
- E. his neighbors have no issue with the proposed expansion.

Mr. Guess express his believe that the applicant had not shown any hardship with regards to the property in justifying his desire to expand and moved to deny the matter. The motion was seconded by Mr. Coleman. The Chair called the vote with all members of the Board voting in opposition to the motion except Mr. Guess.

Hearing no further opposition or discussion, a second motion was made by Mr. Coleman, with second by Mr. Davis to approve the request for **Side Street Yard and Rear Yard Setback Variances to amend a previously approved variance to allow the expansion of a garage within 12' of a side street property line and within 3.8' of a rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 20' side street yard setback and an 8' rear yard setback for structures in an R-1, Single-Family Residential District, at the above referenced address, subject the following conditions:**

- 1) the provision of gutters and downspouts; and
- 2) the purchase of all required building permits.

The motion carried with only Mr. Guess voting in opposition.

#5481

(Case #ZON2008-01602)

Janice and Charles Reese

256 Park Terrace

West side of Park Terrace, 215' ± South of Government Street

Rear Yard Setback Variance to allow the construction of a storage shed within 1.8' of a rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' rear yard setback for structures in an R-1, Single-Family Residential District.

Charles Reese, 256 Park Terrace, Mobile, AL, addressed the Board and made the following points in favor of approving the requested variance:

- A. there had been a shed on the property for approximately the last 25 years, however, it was destroyed as a result of Hurricane Katrina;
- B. they simply wanted to rebuild the shed in its former location, with it being set farther off the setback lines due to their desire to keep the yard safe from the over growth of grass and plants and the risk of vermin that would bring; and,
- C. the proposed storage building would function as a place for them to house such things as the lawn mower, leaf blower, bicycles, and camping equipment.

Mr. Palombo addressed the Board and advised them that based upon the staff's research, there had been no storage shed in that area as far back as 1984, however, per the site plan submitted by

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the applicant, there appeared to be a storage shed along the northwest side of the property that also did not meet the required setbacks.

Hearing no further opposition or discussion, a motion was made by Mr. Guess, with second by Mr. Davis, to deny the request for a **Rear Yard Setback Variance to allow the construction of a storage shed within 1.8' of a rear property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires an 8' rear yard setback for structures in an R-1, Single-Family Residential District at the above referenced location, based on the fact that insufficient evidence was presented that the Zoning Ordinance caused an unnecessary hardship to the property; and as such, the Board was without authority to grant a variance.**

The motion carried with only Mr. Cummings voting in opposition to it.

#5482

(Case #ZON2008-01605)

Tracey M. Wiley

2905 First Avenue

South side of First Avenue, 55'± East of Roach Street

Use Variance to allow a sandwich shop in an R-1, Single-Family Residential District: the Zoning Ordinance requires a minimum B-2, Neighborhood Business for a sandwich shop.

The following people addressed the Board:

- Tracey Wiley, 2905 First Avenue, Mobile, AL, the applicant; and,
- Harold Williams, 3312 First Avenue, Mobile, AL.

They made the following points in favor of the variance:

- A. the purpose of the shop was to a place for area residents, especially the youth, to get something cheap and quick to eat;
- B. the project did not involve building a large permanent structure on the property, as the owner planned to use a 12 foot by 24 foot portable shed;
- C. the Health Department had already advised the applicant as to the restrictions and requirements for this type of establishment;
- D. the applicant was aware that the variance was only for use and that they must comply with the rest of the Zoning Ordinance requirements for this type of site, such as landscaping and buffers; and,
- E. area neighbors supported the project and saw it as having a positive impact in the area.

Mr. Palombo advised the Board of the following:

- A. the site in question was situated in a very dense residential section of the city;

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- B. city records do not indicate that the property was at any time zoned or used commercially;
- C. though the applicant is the stated owner of the property adjacent to the subject property, city ordinances require that all parking for such a proposed venture be located on site;
- D. though use variances have been granted previously for other residentially zoned sites in the area, those sites had prior history of commercial use; and,
- E. several requests for use variances for the area have come before the Board in recent years and those have been denied based upon their perceived negative impact on the residential character of the neighborhood.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the request for a Use Variance to allow a sandwich shop in an R-1, Single-Family Residential District: the Zoning Ordinance requires a minimum B-2, Neighborhood Business for a sandwich shop, at the above referenced address.

The motion carried unanimously.

5483

(Case #ZON2008-01606)

Chris Lovvorn

4706 Dauphin Island Parkway

West side of Dauphin Island Parkway, ¼ mile± South of Alba Avenue

Use and Parking Surface Variances to allow a marine contractor's storage yard with aggregate parking and lay-down yard surfaces in an R-1, Single-Family Residential District; the Zoning Ordinance requires an I-1, Light Industry District for a contractor's storage yard, and parking and lay-down yards must be asphalt, concrete, or an approved alternative surface.

The following people spoke on the matter:

- Don Rowe, Rose Surveying and Engineering Company, Inc.,; and,
- Chris Lovvorn, 207 DeSoto Avenue, Mobile, AL, the applicant.

They made the following points for approval of the matter:

- A. the applicant's business is a home based wharf and pier building company which builds out primarily along the western side of Mobile Bay and Dog River;
- B. the applicant has stored the barge and construction equipment at a nearby marina, however, due to a change in ownership at that marina, he is no longer allowed to do so;
- C. though the area is zoned R-1, single family residential, that area of Dauphin Island Parkway is commercial in nature as it has a number of marinas, bait shops, and other boating related operations thereby changing the character of that particular area;

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- D. the space would be home to various pieces of large equipment including the barge, cranes, and drills; and,
- E. the applicant planned on using a limestone aggregate to surface the area to allow for drainage as this area is also prone to flooding in times of high rain and high tide.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Graham, to approve the request for **Use and Parking Surface Variances to allow a marine contractor's storage yard with aggregate parking and lay-down yard surfaces in an R-1, Single-Family Residential District; the Zoning Ordinance requires an I-1, Light Industry District for a contractor's storage yard, and parking and lay-down yards must be asphalt, concrete, or an approved alternative surface, at the above referenced address.**

The motion carried unanimously.

#5484/5160

(Case #ZON2008-01610)

Krewe of Marry Mates (Paul Tidwell, Agent)

East side of South Washington Avenue, extending from Tennessee Street (unopened public right-of-way) and the Illinois Central Gulf Railroad right-of-way, to Kentucky Street

Use Variance to allow the construction of two 200' x 90' float barns in a B-3, Community Business District; float barns are allowed with Planning Approval in a B-4, General Business District and allowed by right in an I-1, Light Industry District.

Don Rowe, Rowe Surveying and Engineering Company, Inc., addressed the Board and asked that the matter be held over until the August, 2008, meeting.

Hearing no opposition or discussion, a motion was made by Mr. Coleman, with second by Mr. Guess, to **hold the application over until the August 4, 2008, Board of Zoning Adjustment meeting.**

The motion carried unanimously.

5485

(Case #ZON2008-01611)

D'Iberville Oil, LLC

6361 Cottage Hill Road

South side of Cottage Hill Road, 180'± East of Hillcrest Road

Side Yard Setback Variance to allow the construction of two 30' x 60' buildings within 2.0' of a side property line in a B-2, Neighborhood Business District; the Zoning Ordinance requires a zero or 5'-plus side yard setback in a B-2, Neighborhood Business District.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant and made the following points in favor of the matter:

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- A. the need for the variance was created after the fact due to the negligence of several people, including a city inspector;
- B. all buildings on the site were complete at the time the Zoning Inspector came on site and determined that the buildings had been constructed in the wrong place; and,
- C. though the hardship is not specifically associated with the physical nature of the land, it now is based upon the fact that the build out was never questioned at the previous inspection.

Mr. Palombo reminded the Board that determination of a hardship was not to be based upon economics but on the physical limitations of the property and that was the basis for the staff's recommendation that the matter be denied.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Coleman, to approved the request for a **Side Yard Setback Variance to allow the construction of two 30' x 60' buildings within 2.0' of a side property line in a B-2, Neighborhood Business District; the Zoning Ordinance requires a zero or 5'-plus side yard setback in a B-2, Neighborhood Business District**, at the above referenced address.

The motion carried unanimously.

#5486

(Case #ZON2008-01613)

E.ON Climate and Renewables

660 Dunlap Drive

West side of Dunlap Drive [private street], 900' ± North of its South terminus

Height Variance to allow the construction of a 198' guyed weather observation tower in an I-2, Heavy Industry District; the Zoning Ordinance allows a maximum height of 180' for towers in an I-2, Heavy Industry District.

Don Rowe, Rowe Surveying and Engineering Company, Inc., spoke on behalf of the applicant and made the following points for approving the requested variance:

- A. the proposed structure is a temporary weather tower for studying weather within the Gulf of Mexico and they would be installing similar towers along the entire Gulf Coast;
- B. the property in question was an empty, flat lay down yard located on a private road in the highly industrial area off Dunlop Drive along the bay;
- C. the proposed 198' tower is an industry standard;
- D. purpose of the height is to take wind data at higher levels than the proposed 198 feet; therefore a shorter tower would not meet a variety of requirements
- E. there are very few sites that have clear, open views straight to the Gulf of Mexico where such a tower could be installed;
- F. the site works as well because winds could come from the Gulf up the bay to the river and directly to the tower; and,

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- G. it was a temporary study and after two years of data collection, the tower would be taken down.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Coleman, to approve the request for a **Height Variance to allow the construction of a 198' guyed weather observation tower in an I-2, Heavy Industry District; the Zoning Ordinance allows a maximum height of 180' for towers in an I-2, Heavy Industry District**, at the above referenced address.

The motion carried unanimously.

#5487

(Case #ZON2008-01614)

The Mitchell Company

4453 and 4459 Old Shell Road, and 5 South McGregor Avenue

Southwest corner of Old Shell Road and South McGregor Avenue

Front Setback, Frontage Landscaping, Vehicle Stacking, and Protection Buffer Variances to allow the construction of a pharmacy within 2.8' of a front property line and a clock tower within 14.5' of a front property line, with less than 60% frontage landscaping, less than three vehicle queuing spaces per drive-through lane clear of drive aisles, and no vegetative planting or fence buffer along residentially zoned properties in a B-2, Neighborhood Business District; the Zoning Ordinance requires a 25' street front setback for all structures, 60% street frontage landscaping, three queuing spaces per drive-through lane clear of drive aisles, and a minimum 6' high wall, fence, or screen planting buffer along residentially zoned properties in a B-2, Neighborhood Business District.

Doug Anderson, Burr and Foreman Law Firm, addressed the Board on behalf of the applicant and requested that the matter be held over until the August 4, 2008, meeting.

Hearing no opposition or discussion, a motion was made by Mr. Coleman, with second by Mr. Graham, to **hold the matter over until the August 4, 2008, Board of Zoning Adjustment meeting.**

The motion carried unanimously.

#5488

(Case #ZON2008-01615)

The Mitchell Company

4453 and 4459 Old Shell Road, and 5 South McGregor Avenue

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Southwest corner of Old Shell Road and South McGregor Avenue

Front Setback, Frontage Landscaping, Vehicle Stacking, and Protection Buffer Variances to allow the construction of a pharmacy within 12.4' of a front property line, with less than 60% frontage landscaping, less than three vehicle queuing spaces per drive-through lane clear of drive aisles, and no vegetative planting or fence buffer along residentially zoned properties in a B-2, Neighborhood Business District; the Zoning Ordinance requires a 25' street front setback for all structures, 60% street frontage landscaping, three queuing spaces per drive-through lane clear of drive aisles, and a minimum 6' high wall, fence, or screen planting buffer along residentially zoned properties in a B-2, Neighborhood Business District.

Doug Anderson, Burr and Foreman Law Firm, addressed the Board on behalf of the applicant and requested that the matter be held over until the August 4, 2008, meeting.

Hearing no opposition or discussion, a motion was made by Mr. Coleman, with second by Mr. Graham, to **hold the matter over until the August 4, 2008, Board of Zoning Adjustment meeting.**

The motion carried unanimously.

5489

(Case #ZON2008-01616)

Montgomery Commercial Properties LLC (Michael Montgomery, Agent)

315 Bay Shore Avenue

West side of Bay Shore Avenue, 565' ± North of Spring Hill Avenue

Use Variance to allow a fastener distributorship to manufacture bolts in a B-3, Community Business District; the Zoning Ordinance requires an I-1, Light Industry District for bolt manufacturing.

Michael Montgomery, Montgomery Properties, spoke on his own behalf and made the following points in favor of the application:

- A. in 2005 a similar variance had been requested and approved for the adjacent site but damage from Hurricane Katrina prevented him from expanding and that variance had expired;
- B. over time the business has recovered financially, and as a result, has grown and is now ready to expand to the property in question; and,
- C. since the Board had already approved a use variance in the same basic area, the applicant would simply like for them to apply that approval to the new site in question.

Mr. Palombo advised the Board that the requested use was proposed for an area that was on one side densely residential and on the other side a densely B-3, community business district. He added that approval of said request would in a sense create a new I-1 zoned district due to the amount of land involved.

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Hearing no opposition or further discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to approve the request for a **Use Variance to allow a fastener distributorship to manufacture bolts in a B-3, Community Business District; the Zoning Ordinance requires an I-1, Light Industry District for bolt manufacturing**, at the above referenced address, with the following conditions:

- 1) **compliance with the Zoning Ordinance requirement of 60% street frontage landscaping; and,**
- 2) **a minimum 6' high wall, fence, or screen planting buffer along residentially zoned properties.**

The motion carried unanimously.

5490/5437

(Case #ZON2008-01618)

Mr. & Mrs. Doug Ray, III

64 Hawthorne Place North

West side of Hawthorne Place North, 355'± South of Kingsway Drive

Side Yard Setback Variance to allow two 46" HVAC units within 4'2" of a side property line, and one 44" HVAC unit within 4'6" of a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 6' side yard setback for HVAC units 36" high or higher in an R-1, Single-Family Residential District.

Doug Ray, 64 Hawthorne Place North, Mobile, AL, spoke as the applicant and made the following points in favor of the matter:

- A. in October, 2007, a Site Variance was filed for and received to allow construction of a single family home with 38.2% site coverage on the site, though the Zoning Ordinance stated that maximum site coverage in an R-1 was 35%;
- B. the heating and cooling company responsible for the work stated the setbacks could not be met due to the physical dimensions of the condensing units and they stated that there are no other options for the placement of the units without compromising the efficiency and cooling capacity of the units; and,
- C. the home was currently being construction, so redesign was not a feasible option.

Mr. Palombo stated that normally a situation such as this would be considered self-imposed, however, as the Board had previously granted the applicant the ability to build their home to such a size that exceeded standard site coverage the hardship was now inherent to the property.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Davitt, to approve the request for a **Side Yard Setback Variance to allow two 46" HVAC units within 4'2" of a side property line, and one 44" HVAC unit within 4'6" of a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 6' side yard setback for HVAC units 36" high or higher in an R-1, Single-Family Residential District**, at the above referenced address.

July 7, 2008
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The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: February 1, 2010

Chairman of the Board

/jsl