

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF AUGUST 2, 2010 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

William Guess
Vernon Coleman
Sanford Davis
Adam Metcalf
J. Tyler Turner*
*supernumerary member

MEMBERS ABSENT

Reid Cummings, Chairman
Russell Riley*

STAFF PRESENT

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

OTHERS PRESENT

Butch Ladner, Traffic Engineering
David Daughenbaugh, Urban Forestry
Gerard McCants, Urban Forestry

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

CALL TO ORDER:

Acting Chair Mr. Guess 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.

APPROVAL OF MINUTES:

A motion was made by Mr. Coleman, with second by Mr. Davis, to approve the minutes from the following meetings:

- November 12, 2009
- December 7, 2009
- January 4, 2010
- February 1, 2010
- March 1, 2010
- April 5, 2010

The motion carried unanimously.

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PUBLIC HEARINGS:

#5622 / 4677
(Case #ZON2010-01471)

Rich's Car Wash

1066 Hillcrest Road

(Northwest corner of Hillcrest Road and Johnston Lane)

Front Yard Setback Variance to allow a structure 11' from a front property line in a B-2, Neighborhood Business District; the Ordinance requires a minimum 25' from front property lines in a B-2, Neighborhood 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.

Don Williams, Williams Engineering, 6300 Piccadilly Square Drive, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of approving the matter:

- A. Rich's Car Wash had been at this location for the last 8 years where it originated as a car wash with oil change facilities;
- B. an out-of-town consultant as well as 6 of the employees had advised that adding a car detailing business to the site would increase profitability;
- C. noted that 2 additional canopies were needed for the car detailing business as they would allow the car owner to simply drive their vehicle under one of those canopies, leave it to be detailed while they waited for it inside the main building;
- D. noted that one of the canopies was the required setback footage from the adjacent creek;
- E. noted that the other canopy was 11 feet from Johnston Road, a minor street, with only 1 or 2 residences located at the end of said road, one other business across the street from the site in question;
- F. noted that Johnston Road was a gravel road with no curb and gutter;
- G. noted that the canopy roofs were built up on columns so there was clear visibility underneath and they did not cause "line of sight" issues for area traffic;
- H. there were 5-6 Crepe Myrtle trees and a Maple tree in the circle between the curb of the property in question and Johnston Road and those trees were in the right-of-way;
- I. the Crepe Myrtle and Maple trees were of such a height as to hide the detailing canopy roofs;
- J. noted it was only the canopy portion of the structure that was 11 feet from the setback;
- K. noted that the canopies had been installed with benefit of permits; and,
- L. the applicant had gone to the Planning Commission regarding having the site rezoned and getting some relief with regards to the parking issue.

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

Robert Johnston, 6447 Johnston Lane, Mobile, AL, spoke on the matter. He stated he owned the property adjacent the property in question and had not had enough opportunity to research and determine what would be the impact of the matter in question on his property. He asked that the matter be held over to allow him time to discuss this with his lawyer.

Hearing no further opposition or discussion, a motion was made by Mr. Coleman, with second by Mr. Turner, to hold the matter over until the September 13, 2010, meeting, at the request of the applicant.

The motion carried with Mr. Guess abstaining.

#5623

(Case #ZON2010-01476)

John D. Gibbons & Associates, P.C.

306 Morgan Avenue

(West side of Morgan Avenue, 160' South of Airport Boulevard)

Parking Ratio, Access/Maneuvering, and Sign Placement Variances to allow a total of 3 parking spaces, a 10' wide access drive with substandard maneuvering area at a commercial site in a B-1, Buffer Business District, and a freestanding sign to be placed within the City of Mobile Right-of-Way; the Ordinance requires a minimum 6 parking spaces, 24' wide access and maneuvering area for a commercial site in a B-1, Buffer Business District, and requires the placement of signs on private property.

The Chair announced the matter, advising the sign variance had been recommended for denial and the access and maneuvering variance had been recommended for approval and that the applicant should address the Board regarding the subject at that time.

John Gibbons, 306 Morgan Avenue, Mobile, AL, spoke on his own behalf and offered the following points in favor of approving the matter:

- A. wanted the sign in question to be as close to the road as possible but could move it back 18 to 24 inches so it would not be in the right-of-way; and,
- B. noted the main reason behind the variance request was the fact the driveway was too small and there was not enough room for the 6 parking spaces required at a minimum, which was the hardship associated with the property.

Mr. Ladner, Traffic Engineering, noted his department wanted to review any proposed changes the applicant wanted to make after having reviewed the staff's recommendations and that his department had no problem allowing a different driveway or a modification in the parking spaces as long as the applicant would agree to put in same based upon Traffic Engineering recommendations.

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Mr. Guess asked if the applicant was agreeable with that as well as complying with the tree and landscaping requirements.

Mr. Gibbons noted his agreement to same.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Turner, to deny the requested sign variance, and to approve the request for access and maneuvering variance, subject to the following conditions:

- 1) limitation to one professional employee and one office staff person for a total of two employees;**
- 2) revision of the site plan to depict a widening of the accessway to allow for three parallel parking spaces along the accessway with a turnaround being in the area where the parking spaces are currently depicted;**
- 3) approval of Traffic Engineering for curb cut modifications;**
- 4) full compliance with landscaping and tree planting requirements; and**
- 5) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5624 / 2015

(Case #ZON2010-01756)

Dr. Yvonne Kennedy

1205 Glennon Avenue

(Southwest corner of Glennon Avenue and Clay Street, extending South to Northwest corner of Basil Street and Clay Street)

Fence and Wall Height Variance to allow the construction of a 6' high masonry wall with columns along the right-of-way line of Clay Street and Basil Street and the construction of a 6' high wooden privacy fence within the setback from Basil Street in an R-2, Two-Family Residential District; the Zoning Ordinance requires that fences and walls within the setback along rights-of-way to be no higher than 3'.

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.

Jerry Byrd, Byrd Surveying, 2609 Halls Mill Road, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the matter:

- A. the applicant currently lived on the site and over the years she had purchase the surrounding 6 parcels, including removing the dilapidated structures on those properties, in an effort to "clean up" the neighborhood;
- B. it was her desire to construct a wall which would be both concrete and wood along her property line in an effort to keep said property clean and secure and inasmuch a 3 foot high wall would not be appropriate;
- C. with regards to visibility at the corner of Basil Street and Clay Street, the applicant offered to create the corner at an angle so that any cars approaching that intersection would not have the fence to encumber their line of sight;

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- D. noted the proposed access on Basil Street was actually located at an existing drive/turn out from the curb;
- E. noted that the proposed drive would be used primarily to access the back portion of the property to keep it maintained or to assist with parking when the applicant would have a family gathering;
- F. noted that the proposed wall was currently drawn as being on the property line, which was approximately 11 to 11.5 feet away from the curb line; and,
- G. noted that even though the 11 or so feet previously mentioned was well below the required setback footage, that the other houses in the neighborhood enjoyed a similar 11 foot setback so the suggested setback was in character with the neighborhood.

Mr. Coleman asked how far back from the corners would the curb need to be in order to comply with the line of sight issue.

Mr. Ladner, Traffic Engineering, noted that was dependent on a number of factors and that he didn't have enough information there to factor that equation, but he did recommend approving the matter contingent upon the applicant doing so based upon it being constructed according to his department's recommendations.

Mr. Coleman also offered the option of a nice, vegetative hedge to serve as protection for the applicant's property in the interim.

Mr. Metcalf asked if the applicant planned to remove any trees from the site.

Mr. Byrd stated that some of them would need to be removed due to their physical condition.

Mr. Coleman noted that the Hope 6 Project was building homes in the area in an effort to improve conditions there and he felt that the applicant's efforts were very much in line with those efforts. He added his feelings that requiring her to adhere to the setback requirement would defeat her efforts and the efforts of the Hope 6 Project.

Mr. Palombo stated his partial agreement with Mr. Coleman's statement, noting that it was certainly correct along the Clay Street side, however, he questioned whether it was appropriate on Basil Street noting that any future adjacent property owner would have visibility issues as a result of it.

Mr. Guess asked the property had been subdivided and if not, should that not be done first.

Mr. Palombo stated it was all metes and bounds property but that the Board could require as a condition for approval that an application for subdivision be submitted to the Planning Commission.

Mr. Metcalf noted his agreement with Mr. Palombo regarding Basil Street and the requested setback and asked if the applicant might consider 20 feet as opposed to the requested 25 feet.

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Mr. Metcalf stated his opinion that a fence 11 feet off of the Basil Street side was a bit too close but that the standard 25 foot setback was too far. He then suggested a compromise of a 20 foot setback.

Mr. Davis advised the Board that at night there was a great deal of traffic in the rear of the applicant's property associated with a lot of illegal activity. He noted the applicant's work in trying to improve the condition of that community by purchasing all of the property in question.

Mr. Coleman agreed with Mr. Davis and offered that he felt there was very little probability that the property adjacent to the applicant's of which Mr. Palombo had spoken would ever be developed residentially.

Mr. Ladner, Traffic Engineering, asked that due to the visibility issues mentioned that a condition for approval be that any fencing be placed per the recommendations of Traffic Engineering.

Mr. Guess asked that there be conditions as well that would guarantee the protection of any trees currently considered protected trees as once the lot was developed residentially, they would lose said protected status.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Tyler, to approve the request for the Fence and Wall Height Variance and allow the construction of a 6' high masonry wall with columns along the right-of-way line of Clay Street and Basil Street and the construction of a 6' high wooden privacy fence within the setback from Basil Street in an R-2 District, subject to the following conditions:

- 1) submission and approval of a one-lot subdivision application;**
- 2) approval from Traffic Engineering and conformance to AASHTO Standards that the construction of the wall will not compromise the line-of-site at the Northwest corner of Basil Street and Clay Street;**
- 3) that all trees 24-inches and larger in diameter be protected; and,**
- 4) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5625 / 3806

(Case #ZON2010-01775)

Yolanda Carstarphen

4558 Moffett Road

(North side of Moffett Road, 160' ± East of Northview Drive)

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Use, Parking Ratio, Parking Surfacing, Access and Maneuvering, Tree and Landscaping, and Protection Buffer Variances to allow a beauty shop with no delineated parking spaces, grass and aggregate parking and maneuvering areas, substandard accessways, no tree planting or designated landscaping area, and no residential protection buffer in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of B-2, Neighborhood Business District for a beauty shop, 6 parking spaces, surfacing of either concrete, asphalt, asphaltic concrete, or an approved alternative parking surface, 12' wide accessways for one-way traffic, a minimum of 12% of the total to be landscaped with 60% of that landscaping located along the frontage, a minimum of 3 frontage trees, 16 perimeter trees, and 1 parking lot tree, and an appropriate buffer between the site and residentially zoned property.

The Chair announced the matter, advising the following had been recommended by staff:

- the front landscaping area variance request was recommended for approval;
- the request for a perimeter and parking tree planting variance was not needed, and thus was moot;
- the request for use variance was recommended for denial, with the further recommendation that the applicant pursue rezoning to B-2, Neighborhood Business District, with the Planning Commission; and,
- the requests for parking ratio, parking surfacing, access and maneuvering, frontage tree planting, total landscaping area, and protection buffer variances were recommended for denial.

The Chair stated that the applicant should address the Board regarding the subject at that time.

Don Williams, Williams Engineering, 6300 Piccadilly Square Drive, Mobile, AL, spoke on behalf of the applicant and made the following points for approval:

- A. noted that the property in question had been a florist shop for the past 28 years and the current owners were retiring and desired to sell;
- B. due to the economy, they had not been approached by another florist, however, they had been approached by the applicant, who wished to develop her own beauty salon in that shopping center;
- C. noted that initially there would be two operators on site but the applicant hoped to build her client base to need four or five operators;
- D. as beauty shops typically were an appointment based business, the applicant only anticipated having seven to eight cars parked at the location once the business was fully operational;
- E. noted that the lot was well buffered with vacant lots and large backyards adjacent to the property in question;
- F. noted that there were a number of businesses in close proximity to the property in question which made the house not very desirable as residential though zoned as such;
- G. noted the applicant was willing to work with Traffic Engineering regarding their concerns;
- H. noted they felt they were within the parking ratio as the site gave them enough implied space for the required number of parking spaces;

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- I. noted the site would have bumper blocks but would not have striping as it would remain a gravel and grass mix as the paving surface; and,
- J. noted there would be some issue in putting in the number of trees required by the Tree and Landscaping ordinance due to the existence of a number of very large Live Oaks

Mr. Coleman asked that there be bumpers or buffering installed between the driveway and the ingress/egress area to prevent anyone from pulling up to the front of the building.

Mr. Williams noted that was possible however if it were shrubbery, those plants would be on the City right-of-way, which was not owned by the applicant.

Mr. Palombo responded that in that case it might be better to install curbing with a right-of-way agreement.

Mr. Guess addressed the issue of parking surface and noted that from the pictures it seemed as if the site might need more gravel.

Mr. Williams noted that if this were the case, the applicant would get more gravel to better stabilize the area.

Hearing no further discussion, a motion was made by Mr. Metcalf, with second by Mr. Davis, approve the Use, Parking Ratio, Parking Surfacing, Access and Maneuvering, Tree and Landscaping, and Protection Buffer Variances to allow a beauty shop with no delineated parking spaces, grass and aggregate parking and maneuvering areas, substandard accessways, no tree planting or designated landscaping area, and no residential protection buffer in an R-1, Single-Family Residential District, subject to the following conditions:

- 1) provision that the area in front of the building be enhanced to prohibit any parking by employees or customers to the business;**
- 2) the provision of the enhancement of the parking surface in the rear to allow an improved surface for the parking of vehicles; and,**
- 3) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

OTHER BUSINESS:

Mr. Palombo noted the 2010-11 submittal deadline and meeting schedule had been presented to the Board for their approval.

A motion was made by Mr. Guess, with second by Mr. Coleman, to approve and adopt the above referenced matter.

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The motion carried unanimously.

There being no further business, the meeting was adjourned.

APPROVED:

Chairman of the Board

/sg