

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF AUGUST 3, 2009 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

William Guess  
Vernon Coleman  
Sanford Davis  
Adam Metcalf  
Russell Riley\*  
\*supernumerary member

**MEMBERS ABSENT**

Reid Cummings, Chairman  
J. Tyler Turner\*

**STAFF PRESENT**

Frank Palombo, Planner II  
Caldwell Whistler, Planner I  
Tiffany Green, Secretary I

**OTHERS PRESENT**

John Lawler, City Attorney  
David Roberts, Traffic Engineering  
David Daughenbaugh, Urban Forestry

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

**CALL TO ORDER:**

Acting Chairman 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.

**HOLDOVERS:**

**#5531**

**(Case #ZON2009-01103)**

**Napoleon McCoverly**

**208 North Lafayette Street**

Southeast and Northeast corners of North Lafayette Street and St. Stephens Road

**Use, Off-Site Parking, Buffer Fencing, and Buffer Fence Height Variances to allow parking in an R-1, Single-Family Residential District, and off-site parking in a B-2, Neighborhood Business District, no buffer fencing facing across-street residential zoning, and to allow 4' high and 5' high buffer fence heights; the Zoning Ordinance does not allow parking in an R-1, Single-Family Residential District, requires all parking to be on-site in a B-2, Neighborhood Business District, requires a 3' high privacy fence along a parking lot street frontage facing across-street residential use, and requires a buffer fence to be 6' high along adjacent residentially used properties.**

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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Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the applicant and stated that the applicant was in partial agreement with the staff's recommendations. He then went on to discuss the following:

- A. regarding the recommended placement of the fence; it was noted that due to the area the fence was to be placed in, it seemed not to make sense to put the fence in a location that would put it three feet away from the exterior of the building as there were no windows, doors, or other access points there; and,
- B. if the fence was put in along North Lafayette Street, there would only be approximately 24 feet of fencing along a 151 feet of road frontage.

Mr. Palombo expressed his confusion regarding some of Mr. Byrd's statements and stated that the required buffer was parking buffer across the street from the single family residence and that a 3 foot fence/hedge was not going to be required for the building.

Mr. Metcalf asked what the distance between the right hand side/east side of the curb-cut and the property line was.

Mr. Byrd responded it was his belief that it was 45 to 50 feet.

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 floor to a motion.

Hearing no further discussion, a motion was made by Mr. Metcalf, with second by , to approve the request for a **Use, Off-Site Parking, Buffer Fencing, and Buffer Fence Height Variances to allow parking in an R-1, Single-Family Residential District, and off-site parking in a B-2, Neighborhood Business District, no buffer fencing facing across-street residential zoning, and to allow 3' high and 6' high buffer fence heights**, subject to the following conditions:

- 1) **modification of the recently-added parking areas to match the revised site plan of June 19, 2009, and to provide landscaping and tree plantings in compliance with numbers and ratios required for commercial development, to be coordinated with Urban Forestry;**
- 2) **all directional arrows applied to paving to be Thermoplastic as approved by Traffic Engineering;**
- 3) **installation of parking lot lighting in compliance with Section 64-6.A.3.c. of the Zoning Ordinance, specifically so arranged that the source of light does not shine directly into adjacent residential properties or into traffic;**
- 4) **obtaining of any "after-the fact" permits normally required for improvements already made, and obtaining of any permits required for further improvements; and,**
- 5) **waiver of the 3 foot fence on Lot 2.**

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

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#5535

(Case #ZON2009-00315)

Willie L. Williams, Jr.

601 Holcombe Avenue

Southeast corner of Holcombe Avenue and Senator Street

**Parking Ratio Variance to allow 22 on-site parking spaces for a 3,037 square-foot lounge in a B-3, Community Business District; the Zoning Ordinance requires 31 on-site parking spaces for a 3,037 square-foot lounge in a B-3, Community Business District.**

The Chair noted the receipt of a letter from the applicant noting that he had taken employment and would not be able to attend the meeting that day.

Mr. Lawler suggested that the Board would do well to hold the matter over for one meeting.

Hearing no further discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to hold the matter over until the September 14, 2009, meeting.

The motion carried unanimously.

#5538

(Case #ZON2009-01310)

James David Brister

64 Bienville Avenue

Northwest corner of Bienville Avenue and Conti Street

**Rear Setback Variance to allow the construction of stairs 0.1' from the rear property line for access to a legal nonconforming garage apartment in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 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.

James Brister, 64 Bienville Avenue, Mobile, AL, addressed the Board saying he had a garage apartment in the back of his home. He noted for safety purposes for both his family and the tenant, he had constructed new steps going to that apartment on the left side of the lot, facing the building. He noted that due to the building being constructed in the 1920's, it put said steps one foot off of the property line.

Mr. Guess noted that the project had been done without prior permitting and asked had that issue been rectified. He also asked if there was any documentation regarding the garage apartment's non-conforming status.

Mr. Palombo advised the matter had been recommended for denial, however, if the Board were to choose to approve the matter, the staff wanted to stipulate to the conditions of obtaining an after the fact permit and submission of approval of non-conforming documentation if the garage apartment was to be used residentially. He stated that the latter documentation would need to be submitted to the staff prior to permitting.

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Mr. Brister stated he could get a letter from one of his neighbors who had lived in the area since the 1940's stating the garage had always had an apartment in it.

Mr. Guess asked how long had the applicant owned the home and was the garage apartment rented at the time the home was purchased.

Mr. Brister said he purchased the property approximately two years prior. He stated the garage apartment was not occupied at the time he purchased the property as the former owners had terminated that lease when they put the property up for sale; however, it was marketed and sold to him as rental property. He added it had separate meters for water, power, and gas, and that those were in place at the time he purchased the property and that his research of the records of all three utilities indicated that had always been the case.

Mr. Metcalf asked if the applicant had done construction and/or renovation on or in the building itself.

Mr. Brister stated all he had done was have a new central HVAC system put in place and painted.

Mr. Palombo addressed the issue of whether the steps could be moved to a different location in the yard as it was common area for the primary residence and the garage apartment.

Mr. Brister noted the steps could be moved; however, allowing the tenant separate access that was not located in the primary back yard space seemed a safer, better option for all parties living at the location.

Mr. Metcalf asked where the applicant currently parked and how they accessed the public street.

Mr. Brister stated he wanted to utilize the car garage located under the apartment but at the present time they parked in the driveway and backed out onto the public street.

Mr. Guess asked where would the tenant park.

Mr. Brister stated he wanted to provide them with a separate, private driveway on the left hand side of the property.

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 floor for a motion.

Hearing no further discussion, a motion was made by Mr. Davis, with second by Mr. , to approve the request for a **Rear Setback Variance to allow the construction of stairs 0.1' from the rear property line for access to a legal nonconforming garage apartment in an R-1, Single-Family Residential District**, subject to the following conditions:

- 1) **obtaining of an after-the-fact building permit for the stairs; and,**
- 2) **submission and approval of nonconforming documentation if the garage apartment is to be used as a dwelling unit.**

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

**#5540/5533**

**(Case #ZON2009-01320)**

**Joel Thomas Daves & Stephanie Daves**

East side of Drury Lane, 365'± North of Wimbledon Drive West

**Fence Height Variance to allow the construction of a 13.5 foot high wall along the rear and side property lines in an R-1, Single-Family Residential District; the Zoning Ordinance allows a maximum wall height of 8' along the property lines 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.

Joel Daves, 21 Drury Lane, Mobile, AL, spoke but was interrupted by the Chair to ask if he had read the staff's recommendations. Mr. Daves stated he had not and was given a moment to review those, after which he stated he was in agreement with them.

Mr. Palombo asked if a provision could be added requiring City Engineering to inspect and approve the wall after its completion to assure there has been no change in the flow of run off water in the area.

Mr. Daves stated the reason for asking for the 13 foot wall was due to their bringing 4-5 feet of dirt to the site.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Hearing no further discussion or opposition, a motion was made by Mr. Coleman, with second by Mr. Metcalf, to approve the request for a **Fence Height Variance to allow the construction of a 13.5 foot high wall along the rear and side property lines in an R-1, Single-Family Residential District**, subject to the following conditions:

- 1) **approval by City Engineering after completion of the wall to confirm that the flow of water will not change; and,**
- 2) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

**PUBLIC HEARINGS:**

**#5543**

**(Case #ZON2009-01476)**

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**William Jones, Jr.**  
**1020 Oakland Drive**

Southeast corner of Oakland Drive

**Front Yard Setback Variance to allow the construction of a single-family dwelling 22.4' from the front property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 25' front yard setback 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.

William Jones, Jr., 9129 Dawes Creek Drive, Theodore, AL, stated he was in agreement with the staff's recommendations.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the request for a **Front Yard Setback Variance to allow the construction of a single-family dwelling 22.4' from the front property line in an R-1, Single-Family Residential District** to the as-built dimensions.

The motion carried unanimously.

**#5544/4839**

**(Case #ZON2009-01495)**

**B.S. Management**

**3050 Cottage Hill Road**

Northeast corner of Cottage Hill Road and Bel Air Boulevard

**Front Yard Setback Variance to allow the construction of a gasoline canopy 22.8' from a front property line in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum 25' front yard setback 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.

The following people spoke in favor of the matter:

- Frank Dagley, Frank A. Dagley and Associates, on behalf of the applicant;
- Jim McGuire, McGuire Oil Company, 2227 Hall's Mill Road, the applicant; and
- Reggie Copeland, City Council person, District 5.

They made the following points in favor of approving the matter:

- A. the property will be used as gas station and the necessary canopy will extend into the 25 foot setback;

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- B. only a small triangular portion of the canopy actually protrudes into the setback;
- C. the location has been historically the site of gas stations, noting the former Phillips 66 station that once operated there;
- D. canopies for gas stations today are pre-fabricated and installed on location once delivered by the manufacturer;
- E. the discrepancy was only noticed at the final inspection and the protrusion is in the air, not on the ground, and therefore will have no negative impact on traffic;
- F. noted the burden of correcting the canopy was more than simply slanting the corner; and,
- G. expressed the opinion that the current business was an improvement on the former status for the property as it had become quite an eyesore.

Mr. Metcalf asked if the drawings showed the canopy as being within the setback.

Mr. Palombo stated the canopy was not shown within the setback.

Mr. Metcalf asked Mr. Palombo if the request were denied what would be the end result.

Mr. Palombo stated the applicant would have to taper the end in question to bring it within the setback line.

Mr. Lawler spoke to the matter and advised that setback issues were not held to the hardship requirements as other variances. He noted the primary issues with having the setbacks adhered to were those regarding safety, and if some practical difficulty was shown by the applicant that information was taken into consideration.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Mr. Guess asked how many stations were owned by the applicant and was advised there were 25 total, with 20 being within the Mobile city limits and that this was the first time the applicant had had to deal with an issue such as this.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the request for a **Front Yard Setback Variance to allow the construction of a gasoline canopy 22.8' from a front property line in a B-2, Neighborhood Business District.**

The motion carried unanimously.

**#5545**

**(Case #ZON2009-01499)**

**Advantage Sign Co.**

**5454 Zeigler Boulevard**

Northeast corner of North University Boulevard and Zeigler Boulevard

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**Sign Variance to allow three wall signs and a freestanding sign at a single-tenant commercial site in a B-2, Neighborhood Business District; the Zoning Ordinance allows two wall signs and one freestanding sign for a single-tenant commercial site 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.

The following people spoke in favor of the variance:

- Irv Horton, Advantage Sign Company, 5819 I-10 Industrial Parkway, Theodore, AL; and,
- Jim McGuire, McGuire Oil Company, 2227 Hall's Mill Road

They made the following points in favor of the matter:

- A. the Chevron station in question is located at the corner of Ziegler Boulevard and North University Boulevard;
- B. there are issues regarding the actual signage on the gas canopy, the canopy itself being approximately 350 linear feet long;
- C. there is a logo on each end of the building and one set of 18 inch channel letters on the front;
- D. according to the City sign ordinance, the applicant would have to remove one of the two logos from one end of the building, however, those are Chevron standards and are thereby necessary;
- E. simply asking for a two foot by two foot logo only with no words on the south side; and,
- F. the location operates 24 hours a day, so all of the signage provides a service and a level of safety after dark.

Mr. Palombo explained the issue was not amount of space covered by the signage but the number of signs total. He explained the applicant could have Chevron and the logo on two of the four sides available on the canopy. He queried about the size of the free standing sign and was advised it was between 25 and 29 feet.

Mr. McGuire stated that aesthetically all four signs were more in keeping with the sign ordinance than to reduce the number of signs.

Butch Ladner, City Traffic Engineering, asked how the free standing sign might interfere with "line of sight" issues and asked the Board's consideration of that information should they lean toward approving the matter.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Hearing no further discussion, a motion was made by Mr. Riley, with second by Mr. Davis, to deny the request for a **Sign Variance to allow three wall signs and a freestanding sign at a single-tenant commercial site in a B-2, Neighborhood Business District**



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The motion failed with Mr. Guess and Mr. Metcalf voting in opposition.

**#5546**

**(Case #ZON2009-01500)**

**Charles G. Seibert**

**2500 Old Military Road**

Northeast corner of Crescent Drive East and Old Military Road

**Use, Parking Surface, Access and Maneuvering, Tree and Landscaping, and Front Yard Setback Variances to allow a Mobile Home Park and Recreational Vehicle Park with long-term occupancy in an R-1, Single-Family Residential District, with aggregate parking surface, substandard drive aisle widths, vehicles backing into the right-of-way, reduced number of frontage trees, and Recreational Vehicles and Mobile Homes located within the front yard setback; the Zoning Ordinance requires Planning Approval in an R-3, Multiple-Family Residential District for a Mobile Home Park and Planning Approval in a B-3, Community Business District for a Recreational Vehicle Park, with paved, designated parking, 24' drive aisles, maneuvering of vehicles completely on-site, 38 total frontage trees (all overstory), and a minimum 25' front yard setback.**

The Chair announced the matter and asked the applicant if he had read the staff's recommendations and if he was in agreement with same.

Charles Seibert, 2500 Old Military Road, Mobile, AL, stated he had read them and believed he was in agreement.

The Chair and staff noted there were a large number of conditions and wanted assurance that the applicant was aware of and in agreement with them.

Mr. Seibert, after review the recommended conditions, asked for a 30 day hold over.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to hold the matter over until the September 14, 2009, meeting.

The motion carried unanimously.

**#5547**

**(Case #ZON2009-01511)**

**Ultra Car Wash – Mobile Midtown, LLC**

**1862 Government Street**

North side of Government Street, 564' West of Old Government Street, extending North to Airport Boulevard

**Screening and Sign Variances to allow a commercial grade aluminum “wrought iron” style fence along the side property lines of a car wash, to allow 126.38 square feet of total signage and to allow two freestanding signs on a single-tenant site; the Zoning Ordinance requires**

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**vehicles to be screened from view with a 3'-5' tall evergreen hedge and/or landscape berm in B-2 or B-3 districts (privacy fence may be used along the side and rear property lines), the maximum of 64 square feet is allowed along the Government Street Corridor and allows only one freestanding sign for a single-tenant development.**

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

Chip Hackett, co-owner of Ultra Car Wash, a regional express car wash franchise which has been ranked as one of the top 50 operators in the country over the past two years, having a location out on Schillinger Road and the new one in question. He made the following points in favor of the matter:

- A. fully understood the historical nature of where the car wash is located and used that as the basis of building what they believe to be an aesthetically pleasing facility complete with large amounts of landscaping;
- B. regarding signage, they worked with Kerri Coumanis, Mobile Historical Department, who recommended that they get permitted for signage along Government Street, even though they also have frontage along Airport Boulevard, due to timing considerations;
- C. they currently have a free standing sign and a building sign which are collectively under the 64 square feet benchmark;
- D. at the request of the sign company, who was not in attendance, they applied for a variance for both a building sign and a free standing sign on the Airport Boulevard side of the building;
- E. noted that he had been given discouraging feed back regarding the probability of having two free standing signs located on the property;
- F. really wanted to have some signage located on the building itself;
- G. with regards to the fence, felt that the commercial building to the west adjacent to the property functioned as better buffers than the requested wooden privacy fence or hedge;
- H. to the east, noted that the attorney located adjacent to the property had a wrought iron fence and that property owner did not want a wooden privacy fence located along his property line and had sent correspondence regarding the same to the staff;
- I. noted that the property owner to the west had also written a letter to the staff in opposition to the wooden privacy fence;
- J. after discussion with his neighbors to the east and west, the consensus had been that a wrought iron fence would be a more acceptable compromise, and would effectively accomplish most of the objectives in the Ordinance with the exception of providing a visible shield;
- K. noted that one of the adjacent owners had concerns regarding the fence providing a means for someone to hide and then rob customers in that area;
- L. the applicant objected to the privacy fence due to aesthetic reasons, noting that when such fences age, they buckle, flake, and otherwise become an eyesore that is expensive to replace; and,

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M. noted, based upon his research of the area, the matter was not being evenly enforced.

Mr. Metcalf noted that the business had a sign on it facing Government Street and a free standing monument sign facing Government Street which were in compliance with the Ordinance and had the approval of the Architectural Review Board. He clarified that the applicant seemed to only be requesting one additional sign to be located on the building side that faced Airport Boulevard, as none of the already approved signage could be seen from that area. He then asked the staff that should the Board approve the one façade sign, was there some sort of area variance that would need to be approved.

Mr. Palombo advised the variance would need to be for both the ability to put a sign on the façade as well as determining the size of the requested sign.

Mr. Coleman noted the fences in question would run north and south and would be how long.

Mr. Palombo stated they would terminate at the 25 foot setback line from both the Government Street side and the Airport Boulevard Street side.

Mr. Metcalf asked with regards to the east side next to the attorney's office, what would be the distance between the applicant's fence and the existing fence.

The applicant noted they would be right next to each other; however, the existing fence did not go all the way to the setback lines.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalf, to approve the request for a **Screening and Sign Variances to allow a commercial grade aluminum "wrought iron" style fence along the side property lines of a car wash and one additional 12.56 sq ft wall sign**, subject to the following conditions:

- 1) **approval by ARB; and,**
- 2) **full compliance with all municipal codes and ordinances.**

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

**#5548**

**(Case #ZON2009-01425)**

**Don Parden**

**1007 Government Street**

Southeast corner of Government Street and Chatham Street

**Parking Surface Variance to allow grid (grass) pavers as an alternative parking surface at an existing church site in an R-1, Single-Family Residential District; the Zoning Ordinance requires that parking lots be properly surfaced with concrete, asphaltic concrete, asphalt**

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**or an approved alternative parking surface, which may only be required as a condition of application approval for spaces requested in excess of the minimum ratio requirements.**

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.

The following people spoke for the variance:

- Larry Jones, 1171 Sanaberi Court, spoke as representative of the property owner; and,
- Don Parden, Exit Realty – Lyon, representing both ICM/Church of Christ, the property owners, and Cornerstone Metropolitan Church, the potential buyers of the property.

They made the following points in favor of the variance:

- A. the location was a church built on the corner of Government Street and Chatham Street in the early 1950s;
- B. the church recently sold a historical building located on part of the property and as a result they had to go before the Planning Commission for approval of a Planned Unit Development;
- C. as a result of the Planned Unit Development application, they have had to designate additional parking due to the number of pews in the church;
- D. located on the property in the area of the proposed parking is a 95 inch live oak which might be one of the oldest live oaks in the city;
- E. in an effort to preserve the live oak and bring the parking up to standard, they wished to use grass pavers;
- F. they had met with the Architectural Review Board who were in agreement with the use of the pavers as it would make the area appear grassy when the church was not in session;
- G. both churches had gone through the long 10-month ordeal of meetings with the city regarding the property and were at the end of their rope so to speak;
- H. ICM/Church of God could no longer afford to retain ownership of the property;
- I. the two-story carriage house building, the only historic carriage house in the city still in existence, has root and other problems that need to be addressed quickly, something the church can not afford to do;
- J. the architect responsible for the site plan has had serious health issues, postponing the creation of the document involved;
- K. both churches are willing to do whatever is necessary regarding the parking; and,
- L. the purchasing church has agreed to reduce the number of pews, thereby reducing the number of parking spaces needed;

Mr. Palombo stated the problem staff had with doing so was the staff had no site plan illustrating what would be grid pavers and what would not. He advised the Board that if they were leaning

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towards approving the matter, it needed to be done so subject to parking approval for the church, approval from Urban Forestry, City Engineering, and the Architectural Review Board.

Mr. Metcalf stated his opinion that pervious surfaces were being used across the country in an effort to control flooding and lessen the negative impact of development on the environment and noted that the City of Mobile should embrace this option, especially in the more flood prone areas of the city.

Mr. Daughenbaugh stated Urban Forestry was very in favor of pervious surfaces but that they needed to see the site plan with regards to any and all trees located on the property, especially the 95 inch live oak. He also noted that the proposed driveway indicated that it would entail widening the current driveway and that the applicant would have to have a Mobile Tree Commission permit prior to doing so.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Hearing no further discussion, a motion was made by Mr. Metcalf, with second by Mr. Davis, to approve the request for a **Parking Surface Variance to allow grid (grass) pavers as an alternative parking surface at an existing church site in an R-1, Single-Family Residential District**, subject to the following conditions:

- 1) **approval by ARB; and,**
- 2) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

**#5549/5389/4356**

**(Case #ZON2009-01748)**

**Bayou, Inc. (dba Holiday Inn)**

**301 Government Street**

Block bounded by Government Street, Jackson Street, Church Street, and Claiborne Street

**Sign Variance to amend a previously approved sign variance to allow the addition of a 37.5 square-foot, double sided, freestanding monument sign to the existing 5 wall signs for a total of 6 signs, and 364 square feet of signage for a tenant in a multi-tenant site; The Zoning Ordinance allows a maximum of 1 wall sign per tenant and 1 freestanding sign for the entire development, as well as a maximum allowable total signage of 64 square feet per tenant is allowed in a historic district in a B-4, General 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.

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The following people spoke in favor of the matter:

- David Lindsey, architect representing the Holiday Inn-Downtown; and,
- Maura Garen, vice-president, Holiday Inn-Downtown, Mobile, AL.

They made the following points in favor of the matter:

- A. the property had recently been upgraded to meet the new Holiday Inn standards;
- B. due to the upgrades, there were also signage changes to the amount previously approved, with an actual reduction in the amount of signage used to the amount requested and approved;
- C. currently looking at the option of having a monument sign on site; and,
- D. the average consumer traveled approximately 10 hours to the hotel and with the current signage it was difficult for them to recognize the property if they were trying to access it from Government Street.

Mr. Palombo stated that a change in the number of signs required coming back before the Board whereas a reducing in square footage would not have required such.

Mr. Guess then asked how much the applicant had reduced the signage from the original variance.

Mr. Palombo stated they had reductions were equivalent to each other.

Mr. Metcalf asked if there was no problem with putting a monument sign on the location as there was not another monument sign; however, if that sign were installed, it would be in violation due to the area requirements for total signage.

Mr. Palombo noted that was correct and also noted that the staff would have no problem approving the matter should the Board desire to do so, subject to its approval by the Architectural Review Board and full compliance with all municipal codes and ordinances. He reminded the Board that the sign in question was proposed as a back lit sign which the Architectural Review Board did not allow.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Hearing no further discussion, a motion was made by Mr. Metcalf, with second by Mr. Davis, to approve the requested for a **Sign Variance to amend a previously approved sign variance to allow the addition of a 37.5 square-foot, double sided, freestanding monument sign to the existing 5 wall signs for a total of 6 signs, and 364 square feet of signage for a tenant in a multi-tenant site**, subject to the following conditions:

- 1) **approval by ARB; and**
- 2) **full compliance with all municipal codes and ordinances.**

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The motion carried unanimously.

**#5550**

**(Case #ZON2009-01751)**

**Austal USA, LLC**

**195 Dunlap Drive**

Southeast corner of Addsko Road and Dunlap Drive, extending to the North side of Pinto Pass

**Sign Variance to allow three 1,219 square-foot wall signs, for a total of 3,657 square feet of signage; The Zoning Ordinance limits wall signs to 30% of the useable wall area up to a maximum of 350 square feet per sign for a single-tenant site in an I-2, Heavy Industry 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.

Ray Floyd, Advantage Signs, spoke on behalf of their client and noted the request for signage larger than the 350 square foot total as stipulated in the Sign Ordinance was based upon the signage needing to be to scale for the building, which was extremely large due to the nature of their business. He noted that the signs requested only represented 5% and 7% of the wall, even though they are extreme with regards to square footage. He also noted that 30% of the wall was normally allowed.

Mr. Guess asked if the signs had already been installed and was advised they had not.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter. 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 floor for a motion.

Hearing no further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the requested for a **Sign Variance to allow three 1,219 square-foot wall signs, for a total of 3,657 square feet of signage.**

The motion carried unanimously.

**#5551/3626**

**(Case #ZON2009-01753)**

**Hughes Plumbing and Utility Contractors, Inc.**

**2645 Halls Mill Road**

South side of Halls Mill Road, 50'± East of McRae Avenue

**Use, Parking Surface, Parking Ratio, Maneuvering, Buffer, and Fence Height Variances to allow a Contractor's Storage Yard with rip-rap and aggregate surfacing for vehicle maneuvering, inadequate queuing spaces at the gated entrance, no parking facilities, inadequate buffer fencing, and fencing that obstructs site within the required front yard in an R-1, Single-Family Residential District; The Zoning Ordinance requires at least an I-1, Light Industry District to allow a Contractor's Storage Yard and also requires all vehicle maneuvering surfaces to be surfaced in concrete, asphaltic concrete, or asphalt, the provision of at least one parking space, buffering by a solid wall or fence at least 8 feet in**

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**height, and for fences within any required front yard that obstruct sight to be no higher than 3 feet in height.**

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.

The following people spoke in favor of the matter:

- Preston Hughes, Hughes Plumbing and Utility Contractors, Inc., 2473 Eslava Creek Parkway, Mobile, AL, the applicant; and,
- Joe Asarisi, Asarisi and Associates, for the applicant.

They made the following points in favor of the variance:

- A. the applicant was a subcontractor with MAWSS who worked on the underground utilities;
- B. normally utilized vacant property in the area of a project for parking of necessary vehicles and equipment;
- C. found the property originally through a real estate agent who advised the property could be used as parking area for his business;
- D. after purchasing the property for this purpose, he received Notification of Violation notices which gave him cause to research the use history of the property;
- E. he has cleared the property and repaired some of the fencing but has made no other improvements to said property;
- F. noted that due to the type of equipment he has, the required parking surface would not be feasible as it would quickly be destroyed;
- G. used the property during the week to stock pile supplies such as rock and equipment for their MAWSS and other projects;
- H. there is a great deal of commercial property in the area, with a number of them using their property to stock pile necessary materials;
- I. when the applicant accessed the property, he sent someone ahead to open the gate, so there were no stacking issues; and,
- J. plans were in place to landscape the property to bring it up to the Landscaping and Tree Ordinance standard.

Mr. Guess asked if this was the only commercial property in use by the applicant.

The applicant advised it was not and that he had a 6000 square foot building located on Eslava Creek Parkway that held his offices and was the central location for his employees and equipment.

Mr. Metcalf commented that the applicant and his agent had noted there were similar businesses in the area. Mr. Metcalf went on to state that type use was I-1, light industrial and also noted there were no I-1 zoned sites close to the site in question.



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The Chair asked if there were any others in attendance who wished to speak in favor of the matter. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments.

Chuck Stapleton, 2355 Hall's Mill Road, Mobile, AL, spoke in opposition to the matter and offered these points:

- A. the business is very noisy and dirty;
- B. though the area is becoming more commercial in nature, those businesses have not had the heavy impact to the area as Mr. Hughes' business; and,
- C. expressed strong feelings that the business was not in character with the remaining residential properties in the area.

Mr. Guess queried Mr. Stapleton if he had seen any stacking of vehicles in an effort for them to get on the property and was advised he had not.

Mr. Metcalf asked why the applicant had not come in for zoning change, as opposed to a variance, when he found out the property was residential.

Mr. Hughes stated that he had been advised that a zoning change would be "forever" and by requesting a variance, once he was through using the property, it could return to residential.

Mr. Guess stated he felt that if the area were used only as a secondary location for the storage of some of the applicant's equipment, it might be more palatable, however, that was not the case.

Hearing no further opposition, he opened the floor for a motion.

Hearing no further discussion, a motion was made by Mr. Metcalf, with second by Mr. Guess, to deny the above referenced request.

The motion failed with Mr. Coleman and Mr. Davis voting in opposition.

Mr. Lawler suggested that a motion to approve be made on the matter and a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the above referenced request.

The motion failed with only Mr. Coleman and Mr. Davis voting in favor and the matter was denied.

**#5552/5529**

**(Case #ZON2009-01754)**

**Nedzad and Dragana Fazlic**

**2900 Lloyds Lane**

West side of Lloyds Lane, 510' ± North of Southridge Boulevard

**Combined Side Yard Setback Variances to amend a previously approved Combined Side Yard Variance to allow the sum of both side yards to be 17.12 feet; The Zoning Ordinance requires the sum of both side yards to total at least 20 feet in an R-1, Single-Family Residential District.**

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The Chair noted that the matter had been held over a number of times due to technical issues involving the survey of the property.

Nedzad Fazlic, 2900 Lloyds Lane, Mobile, AL, spoke on his own behalf. He noted that the original survey was incorrect and he did not know this until he began to build out on the property.

The Chair advised the applicant that the matter had been recommended for approval by the staff based upon a modification to the permit and that the applicant pay addition fees for the same.

Mr. Palombo responded that the staff actually had recommended the matter be denied, however, the final decision was up to the Board. He noted that the 3 x 5 cut-out was not illustrated on the survey that was submitted by the surveyor at the May 2009 meeting and had been approved without the inclusion of said cut-out. He stated that inspectors went for a final inspection and found the error.

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.

Hearing no opposition or further discussion, a motion was made Mr. Coleman, with second by Mr. Metcalf, to approve the request for **Combined Side Yard Setback Variances to amend a previously approved Combined Side Yard Variance to allow the sum of both side yards to be 17.12 feet** at the above referenced location.

The motion carried unanimously.

**#5553**

**(Case #ZON2009-01757)**

**Lane-Walding, LLC**

**2716 Dauphin Island Parkway**

West side of Dauphin Island Parkway, 110'± North of Mackie Avenue

**Use, Parking Ratio, Access and Maneuvering, Buffer, Landscaping, and Front and Side Yard Setbacks Variances to allow a Recreational Vehicle Park with legal non-conforming mobile homes to be phased out, with no designated parking, substandard accessways and maneuvering areas, no protection buffers for surrounding residential areas, and mobile homes and recreational vehicles within the front and side yard setbacks in an R-1, Single-Family Residential District; The Zoning Ordinance requires Planning Approval in a B-3, Community Business District, to allow a recreational vehicle park, at least one parking space per trailer or mobile home space, at least 24-foot wide access drives for access and maneuverability, protection buffers, landscaping area and tree plantings, and for structures to be located outside of any required yard.**

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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.

Neal Howard, Polysurveying of Mobile, spoke on behalf of the applicant and stated they had not had a chance to see the staff's comments and took a moment to review them.

The Chair asked if there were any others in attendance who wished to speak in favor of the matter.

Chance Lane, co-owner of Lane-Walding, Inc., advised the Board that their company was trying to provide housing for people on low or fixed incomes. He advised that the property currently had a number of older, in need of repair, mobile homes and they simply wanted to remove those and improve the grounds to that newer travel trailers could be brought in to the site.

After hearing the proponents, he asked if there were those in opposition to the matter and opened the floor to their comments.

Prince and Dolly Turner, 1622 Mackie Avenue, Mobile, AL, adjacent property owners, stated the trailer park had been a negative issue along Dauphin Island Parkway since its inception and that they did not want the park at all. Mrs. Turner noted the trailers currently on the property were there because they had been "grandfathered" in and were non-conforming. As a result of their non-conforming status, they had been re-built and re-built until they could no longer be re-built.

Mr. Metcalf asked the applicant what their intentions were with regards to the property.

Mr. Lane stated they wanted to remove the irreparable trailers and replace them with travel trailers that would be rented on a long term basis.

Mr. Metcalf asked if there were currently any travel trailers on the property owned by third parties and if so, did the applicant plan to continue this policy.

Mr. Lane stated there were some and that he would not be opposed to continuing the practice.

Mr. Metcalf asked for assurances that this type of use was not covered in the Zoning Regulations and Mr. Palombo assured him it was not.

Mr. Palombo stated that there were a number of requirements for trailers/mobile homes that were not in place for travel trailers. He did note that the Regulations stated that RVs should not remain in place for over 30 days.

Mr. Metcalf asked if the area in question was located in an area designated by FEMA as below the 100 year flood zone and was advised yes.

Mr. Guess asked what the ratio of RVs to mobile homes was at the location.

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Mr. Lane stated there were probably 6 travel trailers currently with the rest of the structures being trailers. He also assured the Board that all of the structures on the property were livable and occupied.

Mr. Metcalf asked for what purpose was the applicant coming before the Board as the property had been and continued to be used in the fashion described.

Mr. Palombo stated that based upon the staff's research the site could have 24 trailers and 2 recreational vehicles; however, if the applicant wanted to change the number of trailers or RVs, including switching one for the other, that would require a variance.

Mr. Metcalf noted if that were the case, then the applicant wanted a variance from a non-conforming use which was very complicated.

Mr. Palombo noted he thought it would have been better for the applicant to have pursued rezoning of the property and gone before the Planning Commission with their request as opposed to requesting a variance.

Mr. Guess asked the applicant if, after having heard everything that day, would they like to have the matter held over as they pursue a zoning change request.

Mr. Howard expressed he was okay with continuing with the variance request.

Mr. Lane asked for a moment to confer with Mr. Howard, after which, they requested the matter be held over 30 days.

Hearing no further discussion, a motion was made by Mr. Metcalf, with second by Mr. Coleman, hold the matter over until the September 14, 2009, meeting.

The motion carried unanimously.

**OTHER BUSINESS:**

Mr. Palombo presented the meeting and deadline schedule for 2009-2010, and a motion was made by Mr. Guess, with second by Mr. Coleman, to approve the same.

The motion carried unanimously.

There being no further business, the meeting was adjourned.

**APPROVED:**                      September 13, 2010

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Chairman of the Board

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/jsl