

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF SEPTEMBER 14, 2009 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
William Guess
Vernon Coleman
Sanford Davis
Adam Metcalf
*supernumerary member

MEMBERS ABSENT

Russell Riley*
J. Tyler Turner, III*

STAFF PRESENT

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

OTHERS PRESENT

John Lawler, City Attorney
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:

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.

HOLDOVERS:

#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 announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

Willie Williams, owner of 601 Holcombe Avenue, spoke on his own behalf.

The Chair asked if the requested materials for the August meeting had been received.

Mr. Palombo stated that a “to scale” site plan had been received, but no site plans or written agreements with the adjacent property owners had been received to date.

September 14, 2009

Board of Zoning Adjustment

The Chair asked if written agreements from the adjacent property owners allowing use of their property for parking had been obtained by the applicant.

Mr. Williams said he had and that those were presented with the original application.

Mr. Palombo noted the documentation regarding approved use by the adjacent property owners was in the file but there were still no site plans for the locations.

Mr. Williams reminded the Board that the adjacent property was a strip mall with several tenants. He stated that when he went to the site owners for the requested plans, he was unable to get them. He also noted another business located in the strip mall that had been there less than five years who had not been required to submit the materials requested of him.

The Chair noted that if the applicant wanted to submit and have counted the parking from another site then the requested materials and all costs associated with generating said materials was his responsibility.

Mr. Williams noted that his proposed use did not need the addition parking and that those documents, though they allowed him to park at those respective businesses, was more of a sign of support of his endeavor. He reminded the Board that Holcomb Avenue also allowed for on-street parking, which his patrons might choose to use.

The Chair advised Mr. Williams that the nine on-street parking space could not be counted toward his required, designated number of parking spaces.

Mr. Williams asked if the on-street parking could be counted in the interim to allow him the time and opportunity to finance garnering the information requested by staff.

Mr. Metcalf noted that the applicant only stated using half of the building for the proposed business.

Mr. Williams said that was correct because a beauty supply store currently operated in the other half of the building. He also noted that business closed prior to the daily opening of his business.

Mr. Metcalf asked if the applicant was proposing to use all of the parking spaces on said property for his venture due to the difference in operating hours in his business and theirs.

Butch Ladner, City Traffic Engineering, noted that his department would not be in favor of the “head in, back out” parking.

Mr. Metcalf asked how many spaces were required for the applicant’s business.

Mr. Palombo stated the applicant was required to have 31 and he was only showing 13.

Mr. Coleman noted that all of the parking for the businesses along Senator Street were “head in, back out” parking, to which Mr. Palombo responded that was not formally known as there were no site plans to document the fact.

Mr. Guess asked with which business did the applicant have a parking agreement.

September 14, 2009
Board of Zoning Adjustment

Mr. Williams showed the Board via the slide show the location of the parking in question.

Mr. Metcalf noted that the proposed parking was not even on the same side of the street as the proposed business.

The Chair noted that would not be an issue as long as the applicant had written agreement to use said parking, but the issue remained that there had been no site plan provided showing which space had been designated for the applicant's use.

The Chair asked how many parking spaces the applicant had on the southwest side of Holcombe Avenue and was advised 11 and that business closed at 4 p.m. every day. The Chair then asked how many parking space were available on the northeast side associated with the tax office and was advised there were 24 on Holcombe Street, 7 on Senator Street, and an additional paved parking lot at the back of their business.

The Chair noted that with the agreements, the applicant could show access a total of 35 additional spaces in addition to those provided by the applicant.

Mr. Metcalf asked in what form the applicant had those agreements and what was the duration of those agreements.

Mr. Williams noted the agreements were in memo form with the signatures of each business owner involved and noted the business owners had not stipulated any length of duration.

Mr. Metcalf explained his concern regarding this was based upon the possibility of those business owners changing their minds and then the applicant would be in a situation of not having enough designated parking to run his business.

The Chair, after looking through the file, asked the applicant if he had copies of those agreements with him.

Mr. Williams stated he did not have copies with him that day as he had turned the originals in with the application, however, there were copies of them at home.

Mr. Palombo stated the forms had been received and should be in the file.

After further review, the Chair found the agreements and determined that there were 32 designated off-site parking spaces for the proposed business.

The Chair asked Mr. Lawler for advice on how to accept the parking agreements as some of them were from tenants and not property owners and the agreements had no start or end date.

Mr. Lawler advised the Board that it was their judgment call regarding whether or not they accepted the documents as they were.

The Chair then stated that in reality the applicant's customers would not care where they parked, they would simply parking in an available space near the business.

September 14, 2009
Board of Zoning Adjustment

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 opposition or further discussion, a motion was made by Mr. Cummings, with second by Mr. Coleman, to approve the above referenced matter, subject to the following condition:

- 1) the applicant submits documentation from the adjacent property owners stating that Mr. Williams is allowed to use parking at their location.**

The motion carried unanimously.

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

The following people spoke in favor of the matter:

- Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant;
- John Williams, 3905 St. Andrews Loop West, Mobile, AL, District 4 councilperson; and,
- Charlie Seibert, owner of Shady Acres Campground.

They made the following points in favor of its passage:

- A. the Seibert family had operated the site since 1952 and it had been used as a combination mobile home/trailer park/camp ground since that time;
- B. they were before the Board not for expansion purposes but rather as a result of a complaint that they were changing the use from a mobile home park to an RV park;

September 14, 2009

Board of Zoning Adjustment

- C. in the Spring of 2009, the applicant was issued a Notice of Violation regarding use and zoning;
- D. through the history of the site, the majority of the clientele has been travel trailers and 5th-wheels, mobile, temporary type vehicles;
- E. though the applicant does have two leasees with extremely long histories with the property, the leases offered are 30 day leases which must be renewed;
- F. as there has been no change in the use of the property, they contended that they have not lost their legal, non-conforming status;
- G. can not agree in total to the conditions as set forth by staff because they limit the site to only mobile homes and, as set forth that day, RV's represent the bulk of the business;
- H. regarding Condition 5 and the four lots closest to Old Military Road, though they have always been in their current location, the applicant was willing to remove them, thus freeing the right-of-way space;
- I. the applicant also agreed to Conditions 6, 8, 9, 10, 11, 12, 13, and 14;
- J. the applicant agrees to put privacy fencing along the east side where it abuts R-1, single family, residential property and the north side when the property abutting the applicant's is actually used residentially;
- K. the first violation advised the applicant that "plug in's" were not permissible; however, in the history of the campground there have only been approximately 20 hardwired trailers on the site and currently there were only 14; and,
- L. the lots on the site were not designed and were not big enough for current mobile homes, but they were designed to accommodate travel trailers and other types of RV's.

Mr. Metcalf asked for clarification as to what caused the Notice of Violation.

Mr. Anderson advised they did not know who called the City but the staff report stated the City was notified in March of 2009 that a change in the use from mobile homes to an RV park. He noted that his client informed him that at the time there were approximately 3 individuals who were in drug rehab that were 30 day tenants but that the applicant had evicted them and soon thereafter the City put his client on notice.

The Chair asked if there were any more questions from the Board.

Mr. Coleman asked if it has remained the same and the applicant can show that there has been no change, would the "grandfather clause" require him to change.

Mr. Palombo responded by saying the staff had a non-conforming affidavit on file that noted they had from 41 to 48 mobile homes on the site. He noted that if those numbers were to be increased, that action would null and void the non-conforming affidavit on file. He also noted that the affidavit called for mobile homes on the site, not RVs, and to change that would also nullify the site's legal non-conforming status.

Mr. Cummings asked if, due to when the document had been prepared, the problem was actually one of misnaming the structures to be on the site.

September 14, 2009
Board of Zoning Adjustment

Mr. Palombo noted that it was known that the mobile home industry did not have any 16'x72' structures in the 1950s and that the structures of that day were all pulled behind a car; however, the evolution of trailer homes and parks associated with them has increased in the past 30 plus years.

Mr. Metcalf asked if the affidavit mentioned was current or one that had been on file for a number of years.

Mr. Palombo noted it had been on file since the 1970s or 1980s.

Mr. Anderson agreed with Mr. Cummings that it seemed that the issue was more of determining the correct wording for classification of the site, but regardless of what name was given it, the site still offered the same services and housed the same type structures it did at its inception.

Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, the Chair asked Mr. Anderson to address again, if some type of relief were granted, which conditions the applicant was agreeable to.

Mr. Anderson reiterated his early statements regarding the same.

Hearing no opposition or further discussion, a motion was made by Mr. Cummings, with second by Mr. Coleman, to approve the above referenced matter, subject to the following conditions:

- 1) removal of the northern most curb cut to Crescent Drive;**
- 2) removal of Lots 1, 19, 43, 61, including the removal of all electric, sewer, water, and similar amenity hookups, as well as removal of power boxes;**
- 3) removal of pads and parking and replacement of the same with sod;**
- 4) provision of a 6-foot high wooden buffer privacy fence along the eastern property line where the site abuts existing single-family residential development;**
- 5) provision of a 6-foot high wooden buffer privacy fence along the northern property line if at any time the abutting property to the north is sold and the new owner request that such a buffer fence be erected;**
- 6) preservation of any tree counted for credit, removal to only be allowed in the event of disease or impending danger, with such tree removals to be coordinated via permits from the Mobile Tree Commission and the Urban Forestry section of the Urban Development Department;**
- 7) provision of a note or table indicating lot area, landscaping area, and frontage landscaping area, and compliance with the zoning ordinance, on a revised site plan;**
- 8) provision of a revised site plan incorporating all of the conditions herein;**
- 9) provision of a completed subdivision approval from the Mobile City Planning Commission; and,**

September 14, 2009
Board of Zoning Adjustment

10) full compliance with all municipal codes and ordinances.

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.

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 for the applicant and requested the matter be held over to allow them more time to explore all of their options regarding the property.

The Chair noted that while he was not opposed to it, the staff had taken the time to review the matter, reported on it, and created the necessary recommendations on it. He then asked Mr. Palombo the staff's feelings regarding holding the matter over.

Mr. Palombo noted that if the matter were held over, it would be the second time in as many months.

Hearing no opposition or further discussion, a motion was made by Mr. Cummings, with second by Mr. Coleman, to hold the matter over until the October 5, 2009, meeting.

The motion carried unanimously.

PUBLIC HEARINGS:

#5554/5544/4839
(Case #ZON2009-01986)

McGuire Oil Company
3050 Cottage Hill Road

Northeast corner of Cottage Hill Road and Bel Air Boulevard

September 14, 2009

Board of Zoning Adjustment

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 matter:

- Jim McGuire, McGuire Oil Company, spoke on behalf of himself, Chevron, and Sam Turner of Compac Food Stores; and,
- Reggie Copeland, Council person District 5.

They made the following points:

- A. noted that the previous building on the site had been closed for a number of years and was an eyesore;
- B. noted that the new building was modern and aesthetically pleasing;
- C. requested two canopy signs that would represent Chevron, one being a “wordmart” that would say “Chevron” and the other being a 24 inch by 24 inch logo;
- D. there would be a third sign on site, but it would be a directional sign which would say “Compac” on the store itself;
- E. noted that Compac Food Stores had been in Mobile for 50 years and had 20 stores in the city of Mobile;
- F. feel they are in compliance with the City’s Sign Ordinance by having one directional sign and two wall signs;
- G. the signs would be professionally done and supplied by Chevron; and,
- H. asked that the signs be allowed on the canopy for branding identification and aesthetic purposes.

The Chair noted his curiosity on the matter as the month prior had seen the applicant before the Board regarding the canopy itself encroaching on the right-of-way and queried why the two matters were not combined at that time. He also asked if the issue was the Chevron on the south side of the canopy or was it the Compac sign on the building.

No real answer being given on why the matters were not all addressed at the same time, Mr. Palombo stated the issue was either sign as they were only allowed two wall signs on the site.

The Chair asked regarding the part of the canopy that “fronted” Bel Aire Boulevard where there was currently a Chevron sign, if the Chevron corporate insignia were located there, would it count as one or two.

Mr. Palombo stated that it would count as one.

September 14, 2009

Board of Zoning Adjustment

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 opposition or further discussion, a motion was made by Mr. Davis, with second by Mr. Coleman, to approve the above referenced matter.

The motion carried unanimously.

#5555

(Case #ZON2009-01988)

Frances Stanton Tate

West side of North Mobile Street, extending from Edgewood Street to Nall Street

Side Yard Setback and Combined Side Yard Variances to allow the construction of a single-family dwelling within 6.5' of a side property line with 15.09' of combined side yards on a 48.92' wide lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard setback of 7.0' with combined side yards of 16.3' for a 48.92' wide lot 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.

Jerry Byrd, Byrd Surveying Inc., spoke on behalf of the applicant and made the following points in favor of the matter:

- A. the applicant purchased a lot that was recorded as part of a subdivision in 1917;
- B. at the time the lot was originally recorded, not much thought was put into such issues as lot size;
- C. the lot in question is very unique as it has frontage on three streets;
- D. one corner of the proposed house is less than four inches from the right-of-way line and a little more than one foot from the other corner, with the other houses in the area were in the four to five foot side yard range;
- E. the applicant had taken the matter to a professional architect as well in an effort to have house plans drawn up that would have the house in compliance, the result of which was before the Board;
- F. the applicant did not want her house to front Nall Street at all as there was too much commercial property along that side to maintain a residential feel for her property; and,
- G. noted that Alabama Department of Transportation has taken the necessary space for right-of-way from the east side of Mobile Street regarding the widening of the same, rather than take it from both sides.

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.

September 14, 2009

Board of Zoning Adjustment

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalf to approve the above referenced matter, subject to the following condition:

- 1) that the site be allowed one curb cut to either Edgewood Street or Nall Street with the size, location and design of the curb cut to be approved by Traffic Engineering and conform to AASHTO standards.**

The motion carried unanimously.

#5556

(Case #ZON2009-01989)

Harold Deese

300 Laurel Drive

Southwest corner of Laurel Drive and Cedar Drive

Front Yard, Side Street Yard, and Combined Side Yard Variances to allow an addition to a single-family dwelling within 22.0' of the front property line and 5' of a side street property line, with 10' of combined side yards on a 114' wide corner lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 25' minimum front yard setback and a 20' side street yard setback, with combined side yards of 28' for a 114' wide corner lot in an R-1, Single-Family Residential District.

The Chair announced the matter, advising it had been recommended for approval and that the applicant should address the Board regarding the subject at that time.

Harold Deese, 300 Laurel Drive, spoke on his own behalf and made the following points:

- A. as a landscaper, he had the opportunity to purchase the property from the individual who had previously keeping it up and took it;
- B. didn't realize the house sat on three lots and at an angle; and,
- C. has wanted to expand the house, but due to the way the house was situated on the lot, he has been unable as yet to do so without encroaching on the yard setbacks.

The Chair advised the applicant that the staff's report agreed with him and that they had recommended approval of the matter.

Mr. Palombo noted there had been a change as Mr. Deese's was asking for a five foot setback on the side street line and the staff was offering a 10 foot setback along the side street.

The Chair noted that five feet as a setback from a property line created a very tight situation.

Butch Ladner, City Traffic Engineering, asked for confirmation regarding how far off of the road way the applicant wished to have the setback line.

The applicant believed it to be approximately five feet.

September 14, 2009

Board of Zoning Adjustment

Mr. Palombo stated he would be concerned about the location of any future driveway as the house currently did not have a driveway.

The Chair asked the applicant, when driving onto the property, from what street did he enter the property.

Mr. Deese stated he entered from Laurel Drive and wished to keep that so.

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 opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Guess, to approve the above referenced matter, modified to a 7 foot side street yard setback, with combined side yards of 12 feet and subject to the following conditions:

- 1) obtaining of all required building permits;**
- 2) the site be limited to a curb cut to Laurel Drive with the size, location and design to be approved by Traffic Engineering and conform to AASHTO standards; and,**
- 3) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

#5557/5415

(Case #ZON2009-02001)

Mobile Area Water and Sewer System

4725 Moffett Road

South side of Moffett Road at the South terminus of Shelton Beach Road Extension

Use Variance to allow a water bottling facility, heavy equipment parking, and above-ground fuel storage and dispensing in a B-3, Community Business District; the Zoning Ordinance requires I-1, Light Industry District for a bottling facility, B-5, Office-Distribution District for Heavy Equipment Parking, and I-2, Heavy Industry District with Planning Approval for above-ground fuel storage tanks with dispensing facilities.

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.

Lanny Russell, Zito Russell Architects, PC, spoke on behalf of the applicant and made the following points:

- A. the case originally came before the Board approximately two years prior and the requested variances were granted;
- B. for some reason, MAWSS chosen not to act on the variances within the required six month time period, therefore the variances expired;
- C. therefore, the variances have come back before the Board, however, they are not identical to the previous requests as they have been fine tuned;

September 14, 2009

Board of Zoning Adjustment

- D. noted that the drive-thru windows on the east side of the building have been removed which has allowed the applicant to reduce the driveway width at the east side of the building and thereby move the parking facilities for the vehicles farther away from the east parking line and the residential property;
- E. a decision had been made regarding the types of tanks to be used on the facility and two, instead of three originally proposed, 12,000 gallon tanks had already been purchased and were waiting on the Board's decision before being placed; and,
- F. the rest of the originally proposed plan has remained in place.

The Chair asked if there were any more questions from the Board.

Mr.Coleman asked if the staff located there would be "on call" or would they have standard hours.

Mr. Russell stated they would have standard hours.

Mr. Guess asked regarding the increase in density in the 31 foot landscape buffer, was it not supposed to be increased due to it fronting residential property?

Mr. Russell explained that had not been fully addressed as the applicant had not actually gotten that far in the physical plans for the project therefore there had not been a need to coordinate with Urban Forestry. He added that with the project moving forward this time, there would be coordination with Urban Forestry and that issue would be addressed.

The Chair 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 opposition or further discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to approve the above referenced matter, subject to the following condition:

- 1) subject to compliance with the landscaping and tree planting requirements of the Ordinance as applies to frontage trees, as well as coordination of the 31'-wide landscaped buffer on the East with Urban Forestry.**

The motion carried unanimously.

#5558

(Case #ZON2009-02003)

Twilley Brothers, Inc.

808 Country Club Court

West side of Country Club Court at its South terminus

Side Yard Setback, Combined Side Yard, and Increased Site Coverage Variances to allow the construction of a single-family dwelling within 10' of a side property line on the greater side yard with 18' of combined side yards, and 39.4% total site coverage in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 12' setback on the greater

September 14, 2009

Board of Zoning Adjustment

side yard with 20' of combined side yards, and allows a maximum of 35% total site coverage 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.

Rick Twilley, Twilley Builders, spoke on behalf of his company and made the following points in favor of approving the matter:

- A. the homeowners were Hurricane Katrina victims, which has slowed the building process, with the speaker's company getting the contract just over a year prior;
- B. the average size of houses in that area, combined with the size and shape of the lot in question, have made variances to the Zoning Ordinance necessary;
- C. the homeowners had already compromised by giving up space in their designated storage area to be in compliance;
- D. the area needing the variance was part of the proposed dining room space; and,
- E. one of the neighboring houses had been given a variance due to the size and shape of the lot.

The Chair asked if there were those in opposition to the matter and opened the floor to their comments.

Beatrice McPherson, 301 Thornton Place, Mobile, AL, spoke in opposition and made the following points against the request:

- A. her property bordered the subdivision, which prior to its development, was a wooded lot;
- B. had added bamboo at the back of her lot as a buffer; and,
- C. expressed concern that the houses in the subdivision were very large and not in character with the houses in the surrounding neighborhoods.

The Chair asked if there were any further questions and hearing none, opened the floor for a motion.

Hearing no further opposition or discussion, a motion was made by Mr. Cummings, with second by Mr. Coleman, to approve the above referenced matter.

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

#5559

(Case #ZON2009-02004)

Mobile County Board of Health

248 Cox Street

Southeast corner of Cox Street and St. Stephens Road

September 14, 2009

Board of Zoning Adjustment

Paving Surface Variance to allow the construction of a temporary parking lot with shell surfacing in a B-1, Buffer Business district; the Zoning Ordinance requires parking surfaces to be concrete, asphaltic concrete, asphalt, or an approved alternative paving surface in a B-1, Buffer Business District.

Don Coleman, Rester and Coleman Engineers, Inc, spoke on behalf of the applicant and withdrew matter at their request.

#5560

(Case #ZON2009-02006)

Country Club of Mobile

4101 Wimbledon Drive West

North and South sides of Wimbledon Drive West, 200'± West of Turnin Lane, extending to the East and South sides of Country Club Road, and the North side of Airport Boulevard, ¼ mile± West of South McGregor Avenue

Fence Variance to allow the construction of a barbed wire fence 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.

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

- A. there currently was barbed wire fence along the perimeter of the golf course fronting Airport Boulevard;
- B. the area in question was to house a maintenance facility, which would contain, among other things, pesticides, chemicals, fertilizers, and a number of other environmentally unfriendly products which need to be secured in such a way as to keep them from theft as much as possible; and,
- C. if that portion of the fence was not allowed to be barbed wire, it would create a gap in the barbed wire which might seem inviting to a potential thief.

The Chair asked if the issue of keeping dangerous products out of harms way could be used as an argument for approving the matter.

Mr. Palombo said it could as the materials in question could easily be combined to create a bomb.

Mr. Guess asked if there were any security cameras at the location.

Mr. Anderson stated there were security cameras on location but was not sure as to how they were pointed.

September 14, 2009

Board of Zoning Adjustment

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 opposition or further discussion, a motion was made by Mr. Metcalf, with second by Mr. Davis, to approve the above referenced matter.

The motion carried unanimously.

#5561/5394

(Case #ZON2009-02007)

Grant Harkness

1607 East I-65 Service Road South

East side of East I-65 Service Road South, 950'± North of I-65 Commerce Drive

Parking and Access/Maneuvering Surface Variances to amend the condition of approval of previously approved Parking and Access/Maneuvering Surface Variances to allow aggregate parking and access/maneuvering areas in a B-3, Community Business District; parking and access/maneuvering areas must be concrete, asphaltic concrete, asphalt, or an approved alternative paving surface in a B-3, Community Business District.

The Chair announced the matter, advising it had been recommended for denial and that the applicant should address the Board regarding the subject at that time.

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

- A. the matter had been before the Board approximately two years prior and had been approved for two years;
- B. the property was used for two real uses, one as an existing warehouse for heavy equipment rental and the other as a warehouse for party supply business, where he rents tents and such;
- C. the previous variance granted the applicant the ability to use an aggregate surfacing in the heavy equipment area as standard asphalt or concrete would be destroyed rather quickly by the heavy equipment;
- D. two years before the applicant planned to build a showroom over the area currently having the aggregate surfacing but due to the economy had not been able to do so; and,
- E. the applicant simply wanted that variance to remain in place until such time as it is economically feasible.

Mr. Palombo spoke to the staff's report regarding the existing dumpster and expressed that the staff wondered how the dumpster was reached, whether by a dirt road or a paved one.

Mr. Anderson expressed his confusion over the matter as that question was not raised at the approval of the matter two years prior and nothing had changed over the past two years.

September 14, 2009

Board of Zoning Adjustment

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.

The Chair asked if the area in question was used for parking and how long had the dumpster been in its current location.

Grant Harkness, the applicant, responded that the dumpster had been on site for the last four or five years. He added that regarding parking, other than heavy equipment, some of the delivery trucks parked in the area in question.

The Chair asked if the site were developed over the next two years, would that include developing the site in the rear.

Mr. Harkness re-stated his intentions to build a showroom which would be on the front near the metal building which was built on the site in 2006.

The Chair asked for confirmation that as a result of that the heavy equipment would then have to be housed at the back of the property.

Mr. Harkness stated that was correct.

The Chair noted with that being the case a parking surface variance would be sought whether it be now or later. He then posed the possibility of approving a temporary parking surface variance for a specific time period as opposed to it being indefinite.

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 opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalf, to approve the above referenced matter for a period of two years.

The motion carried unanimously.

#5562

(Case #ZON2009-02008)

Rich's Car Wash

3430 Spring Hill Avenue

North side of Spring Hill Avenue, extending from I-65 North to Spring Hill Plaza Court
Buffer Variance to allow a carwash without a 3' tall evergreen hedge and/or landscaped berm or any privacy fencing along any property lines in a B-2, Neighborhood Business District; the Zoning Ordinance requires vehicles to be screened from view with a 3'-5' tall evergreen hedge and/or landscaped berm (privacy fence may be used along side and rear property lines) at a carwash in a B-2, Neighborhood Business District.

September 14, 2009

Board of Zoning Adjustment

The Chair announced the matter and advised that the applicant should address the Board regarding the subject at that time.

Don Williams, Williams Engineering, spoke on behalf of the applicant and made the following points in favor of approving the matter:

- A. the Zoning Ordinance requires that car washes be buffered from view;
- B. this property is a corner lot with road frontage on two sides so a buffer along those lines might cause traffic/line of sight problems;
- C. based upon the site topography, there is a retaining wall with shrubbery along the northern property line which provides buffering for the adjacent extended stay hotel;
- D. noted that all of the property adjacent to the site in question was either commercial or interstate;
- E. noted that the concrete block retaining wall that began along the northern property line continued along the Springhill Plaza Court side, conceding that the retaining wall could use shrubbery along the top, but that it did effectively serve as a buffer;
- F. noted that along Springhill Avenue, the property sloped down from the road and that currently there were 18 inch shrubbery planted in that location, however, due to the topography, neither the shrubbery nor the Zoning Ordinance required buffer would be tall enough to effectively screen the site from the road; and,
- G. noted that by working with Urban Forestry, the applicant had been able to maintain the live oaks on the property and that due to their canopy, they had created an effective “top-down” buffer for the site.

Mr. Metcalf asked if the property was built in accordance with the originally submitted design plans.

Mr. Williams responded that the original plans noted that the buffer would be required, but with regards to the actual structures, those were built as designed.

Mr. Coleman asked the staff if the primary purpose for the buffer was to impede visibility of the site.

Mr. Palombo stated visibility was one issue but the buffer was also in place to prevent spray and other materials from leaving the site.

Mr. Guess stated his feelings that with regards to the side that fronted the hotel, the buffer should be substantially higher.

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 opposition or further discussion, a motion was made by Mr. Guess, with second by Mr. Coleman, to approve the above referenced matter, subject to the following conditions:

September 14, 2009
Board of Zoning Adjustment

- 1) that the applicant provide a 6-foot high (vegetative or solid privacy fence) buffer along the north property line, that this buffer be no higher than 3-foot within the minimum building setback line; and,
- 2) that the 18-inch vegetative buffer be provided along Springhill Plaza Court.

The motion carried unanimously.

#5563

(Case #ZON2009-02009)

New Horizons Credit Union

622 Azalea Road

South side of Azalea road, 530'± West of Village Green Drive

Rear Setback and Protection Buffer Variances to allow the construction of five HVAC roof shelters 4.0' from the rear property line on a commercial site in a B-1, Buffer Business District adjoining an R-1, Single-Family Residential District; the Zoning Ordinance requires a 10' rear yard setback and 10' protection buffer for a commercial site in a B-1, Buffer Business District adjoining 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.

Don Williams, Williams Engineering, spoke on behalf of the applicant and stated they were in agreement with the staff's recommendations.

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 opposition or further discussion, a motion was made by Mr. Cummings, with second by Mr. Metcalf, to approve the above referenced matter, subject to the following condition:

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

The motion carried unanimously.

#5564

(Case #ZON2009-02010)

Tammy C. Davis

569 Houston Street

East side of Houston Street at the East terminus of Canal Street

Access, Parking Ratio, and Landscaping/Tree Planting Variances to allow a 9.3' wide two-way drive, five on-site parking spaces for a 3,300 square-foot building and no landscaping/tree plantings on a commercial site in a B-2, Neighborhood Business District; the Zoning Ordinance requires a 24' wide two-way drive, 11 on-site parking spaces for a 3,300 square-foot building, 12% total site landscaping with 7.2% frontage landscaping, and

September 14, 2009

Board of Zoning Adjustment

one tree planting for every 30' of site perimeter and one tree per 20 parking spaces in a B-2, Neighborhood Business 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.

Tammy Davis, 569 Houston Street, Mobile, AL, spoke on her own behalf and made the following points:

- A. she had had a beauty salon at 516 Houston Street for the past 15 years;
- B. this past year, she moved across the street to the location in question, purchasing the property from her previous landlord, who advised her that there would be no problem with her having a beauty salon at that location; and,
- C. when she applied for a business license for the location in question, she was informed that there was no information on record regarding the previous businesses at that location.

The Chair asked Ms. Davis if she had seen the recommendations and if she was in agreement with them.

Ms. Davis said she had seen them and that she was in agreement with them.

Mr. Palombo advised the Board that they might consider removing the condition that called for the removal of the concrete pad in the rear of the site for an additional parking space.

The Chair asked about the curbing along Houston Street and discussed the implications of the same with Ms. Davis.

Ms. Davis stated that she purchased the property with the understanding that it was in such a condition that she could simply move her business to the site, however, she had been made aware by city officials that there would be a number of things that would need to be done to bring the site into compliance. She stated she was a simple business woman trying to make a living and was not prepared for the financial issues that were now coming to the forefront.

Mr. Metcalf asked Ms. Davis if she owned the building and she responded that she was in the process of buying it from the owner, her previous landlord.

Mr. Coleman offered that it would be place planters of substantial size to prevent access to the property from all along Houston Street.

Mr. Palombo said planters could be used but the staff would still require that full access along Houston Street to the private property be blocked in some fashion.

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.

September 14, 2009

Board of Zoning Adjustment

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalf, to approve the above referenced matter, subject to the following conditions:

- 1) the placement of substantial planters along the continuous curb along Houston Street to prohibit the parking of vehicles within the front of the building;**
- 2) provision of a minimum 10' curb cut to Houston Street, in line with the existing 10' drive to the rear of the property;**
- 3) submittal of a revised site plan to the Planning Section of Urban Development prior to the issuance of any permits or land disturbance activities; and,**
- 4) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

OTHER BUSINESS:

Mr. Palombo introduced Carla Scruggs, the new Planner I, to the Board. The Chair welcomed her.

There being no further business, the meeting was adjourned.

APPROVED: September 13, 2010

Chairman of the Board

/jsl