

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF AUGUST 5, 2002 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

John Peebles, Chairman
Richard Collier
Rev. Clarence Cooke
H. Lamar Lee
Edley Hubbard (S)

MEMBERS ABSENT

Reid Cummings, Vice-chairman
Rev. P. H. Lewis

STAFF PRESENT

Frank Palombo, Planner I
Timothy Ashley, Planner I
Rose Murphy, Secretary II

OTHERS PRESENT

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

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

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

APPROVAL OF MINUTES:

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the minutes of the meeting of July 8, 2002, as submitted. The motion carried unanimously.

HOLDOVERS:

#5117

(Case #ZON2002-01129)

Robert A. Napier

1808 Ridge Court

(Southwest corner of Ridge Court and Burnt Wood Drive)

Side Yard Setback Variance to allow a 20' x 35' covered RV storage building 5' from the South property line; an 8' minimum side yard setback is required in an R-1, Single-Family Residential District.

The plan illustrates the existing structures and setbacks.

Mr. Alex Napier of 1808 Ridge Court stated they were seeking a variance from the 8' minimum side yard setback required for the south side of the subject property. He said they moved to Mobile in 1999 from Oklahoma City. He went on to say that the property provided everything they needed except a place to park their recreational vehicle. Mr. Napier said he extended the existing driveway into the back yard to park the vehicle. This parking was not desirable because the vehicle was highly visible from Ridge Court and to the immediate neighbors to the south and directly across the street. A contractor told him that the RV shed he wanted to purchase was considered a temporary structure and did not require a permit. He submitted a letter from Southern Building Structures, Inc. and asked that it be entered into the record.

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City of Mobile

Mobile, AL

To Whom It May Concern:

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To our knowledge a detached, temporary, free-standing structure does not require the need for a building permit.

Thank you,

/s/

Mike Chapman

President

Mr. Napier was not aware of the setback requirements and would not knowingly violate them. An 8" caliper Magnolia Tree and a 19" caliper Oak Tree would have to be removed in order to move the shed. He felt this was a hardship on the property because the trees provided shade and sound buffering between his home and Hillcrest Road. He also stated that due to the configuration of the rear yard there was insufficient room to move the shed. Mr. Napier said that he was misled by his contractor, which resulted in the setback violation. He felt the setback violation had not caused any harm to the City or to his neighbors. He presented a letter of support signed by six neighbors. He asked approval of the application in light of the mitigating circumstances.

There was no one present in opposition.

Mr. Peebles asked if the contractor indicated a willingness to attend this meeting.

Mr. Napier said he did not ask the contractor to attend and was somewhat surprised that he got the letter.

Mr. Peebles asked that a letter be prepared for all portable building contractors advising them of the permit requirements for their structures.

During discussion it was noted that the proposal would be in character with the neighborhood and that letters of support were in the file.

A motion was made by Mr. Lee and seconded by Mr. Hubbard to approve the request a Side Yard Setback Variance to allow a 20' x 35' covered RV storage building 4' from the South property line at the above referenced location subject to the following condition:

1. securing proper building permit and required inspections with applicable fees.

The motion carried unanimously.

#5123

(Case #ZON2002-01354)

Friendship Baptist Church

2667 Reaves Street

(North side of Reaves Street, 325' ± East of Mobile Street)

Use and Parking Variances to allow 9 off-site parking spaces for the expansion of a church parking lot in an R-1, Single-Family Residential District; the Zoning Ordinance requires all parking to be located on-site and parking lots are allowed by right in B-1, Buffer Business District.

The plan illustrates the existing and proposed parking and structures.

Ms. Merceria Ludgood represented the applicant and stated that they were previously granted approval on the subject site for 25 parking spaces. The approval expired and during the resubmittal process they learned that they would have to construct a retention pond in order to provide 25 spaces. Therefore, they were asking approval of nine spaces.

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Mr. Ashley stated that he requested a hold over from the previous meeting to allow the applicant the opportunity to explain the reason for the drastic reduction in the number of off-site parking spaces. He noted that the previous site plan did not indicate storm water retention was required for the off-site parking. This plan did not require a retention pond because it was under 4,000 sq. ft.

Mr. Peebles asked if adequate parking was provided for the new construction.

Mr. Ashley said that 63 spaces were required and that only 38 were indicated.

Mr. Peebles asked if there was a reason the proposed off-site lot was not better utilized.

Ms. Ludgood said that only nine spaces could be provided without construction of a retention pond. She said there was additional on-site parking.

Mr. Peebles asked if Ms. Ludgood was aware that the retention pond could be designed so as to allow additional parking.

Ms. Ludgood was not aware of that.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the request for Use and Parking Variances to allow 9 off-site parking spaces for the expansion of a church parking lot in an R-1, Single-Family Residential District at the above referenced location subject to the following conditions:

1. full compliance with landscaping and tree requirements of the Zoning Ordinance; and
2. full compliance with all municipal codes and ordinances.

The motion carried unanimously.

EXTENSIONS:

#4941

Charles V. Taylor

3352 Dauphin Island Parkway

(Southwest corner of Dauphin Island Parkway and Bryan Avenue)

Use and Parking Surface Variances to allow an Automotive Repair and Body Shop in an R-1, Single-Family Residential District; and to allow gravel parking surface to remain; asphalt or concrete are required for all parking and maneuvering surfaces.

Mr. Charles Taylor, Jr., the applicant requested a one-year extension.

Mr. Ashley noted that the application was originally approved in July 2000, and had received three extensions.

A motion was made by Mr. Hubbard and seconded by Mr. Collier to approve the request for a six-month extension of the Use and Parking Surface Variances to allow an Automotive Repair and Body Shop in an R-1, Single-Family Residential District; and to allow gravel parking surface to remain.

The motion carried unanimously.

PUBLIC HEARINGS:

#5128

(Case #ZON2002-01530)

Joey & Rebecca Pilgrim

2560 Crescent Drive North

(North side of Crescent Drive North, 60' ± East of Crescent Drive West)

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Side Yard Setback Variance to allow the construction of a deck and a bedroom/laundry room addition 6.9' from a side property line; an 8' minimum side yard setback is required in an R-1, Single-Family Residential District.

The plan illustrates the existing structures and drive, along with the proposed addition and porch.

The applicant, Mr. Joey Pilgrim of 2560 Crescent Drive stated that he requested an inspection prior to constructing an addition to his existing home and learned that the addition would be 6'9" off the property line in violation of the 8' minimum setback requirement. He said the planned addition would be in line with the existing structure. Mr. Pilgrim requested approval of the application.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for a Side Yard Setback Variance to allow the construction of a deck and a bedroom/laundry room addition 6.9' from a side property line at the above referenced location subject to the following condition:

1. provision of gutters and downspouts.

The motion carried unanimously.

#5129

(Case #ZON2002-01533)

Norman Figures

213 & 215 Durant Street

(West side of Durant Street, 520' ± South of Spring Hill Avenue)

Use Variance to allow a roofing material contractor storage yard in an R-1, Single-Family Residential District; a roofing material contractor storage yard requires a minimum of an I-1, Light Industrial District.

The site plan illustrates the existing buildings, fencing, and asphalt.

Mr. Frank Dagley, 717 Executive Park Drive, represented the applicant and stated that they were seeking a variance to allow use of the proposed site on Durant Street for a contractor's storage building. He said that after the applicant purchased the property, he learned it was not zoned for business. The applicant bought the property based on the premise that it was previously used for a similar business. Mr. Dagley went on to say that the applicant would be storing hand tools, small materials, and roofing materials left from a completed job. The applicant was willing to erect a privacy fence around the property and repair the small buildings there.

The applicant, Mr. Norman Figures, owner of Global Roofing Company, stated that his business was a commercial roofing company. He went on to say that he purchased the property in 2001 and planned to store ladders and other roofing materials, with the exception of shingles, on the site. Mr. Figures said that he had one single-axle truck, a International 4700 with a steel body, that was parked on the property when not in use. He stated that the majority of his business was conducted out of town and the truck stayed on the job site. Mr. Figures went on to say that he did not go to the subject site on a daily basis. He said he contracted someone to keep the property cut every two weeks. There was an iron fence in front of the property, a 9' wooden fence on one side, and a chain link fence on the other.

Mr. Peebles asked why Mr. Figures thought the site was appropriate for this use and if it was used for business before.

Mr. Figures said he needed a place to store ladders and ladder bases. He said the site was previously used as a woodworking business. He stated that files remained on the site. Mr. Figures said the previous owner had a house and woodworking shop on the site. The house was removed. He noted that the previous owner's business license was for an Ann Street location, not the Durant Street site.

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Mr. Peebles asked if the applicant proposed to use the site to park a vehicle only.

Mr. Figures said he only intended to park a vehicle there. There would be no materials stored at the site.

Mr. Hubbard asked if the applicant had attempted to identify another site in an appropriately zoned area to house the truck.

Mr. Figures said no. The reason he chose this site was because other businesses were located in the immediate area.

Ms. Melvina Roberson of Durant Street referred to a letter in the file from Councilmember Richardson opposing the application. She stated that she had lived on Durant Street for 34 years and never knew a business to exist at the proposed site.

Mr. Peebles asked if Ms. Roberson knew the previous owners.

Ms. Roberson said yes. A Mrs. Reynolds lived there and her husband was deceased for approximately 30 years. She said a house was moved from the site approximately four years ago. She felt the property, which was situated between two residences, was more suitable for a residence than a business. She stated the trucks associated with the nearby air conditioning business accessed their site from Old Shell Road, not Durant Street. Ms. Roberson said there were children on Durant Street, and she was concerned for their safety.

There was a brief discussion about use of property on Sycamore Lane, which abutted the rear of the proposed site. Mr. Palombo stated that a Land Use Survey indicated there was a hotel there. He was unsure if the hotel was currently there.

Ms. Roberson asked what type materials Mr. Figures intended to store on the site.

Mr. Peebles said Mr. Figures indicated he intended to only park a truck at the site.

Mr. Ernest Joiner stated the he lived next door to the subject property and that materials were currently stored there.

Mr. Peebles stated that if the application were approved, it would be limited to parking a truck only, which was enforceable. He said that a ticket could be issued if there were ever anything other than a truck parked on the site.

Mr. Joiner said his house was built in 1993 and he felt his property value was lower due to the influx of businesses.

Mr. Leonard McGadney stated that he lived next door to the subject site. He expressed concern for the affect a business would have on his property. He felt there was a sufficient number of businesses in the immediate area.

Ms. Dorothy Treadwell of 202 Durant Street opposed the application because of the noise level generated by businesses.

Mr. Figures reemphasized that there would not be a daily operation at the site. He stated that the neighbor on one side was a painting contractor who parked trucks at his house. He went on to say the neighbor on the other side of the subject site was a brick mason and stored equipment in his back yard. Mr. Figures said he would have the one pallet of shingles currently stored on the site removed and would no longer store materials there. He said he would order a door for the existing structure and would have a wooden privacy fence erected around the entire property.

Mr. Peebles noted the size of the structure and asked if Mr. Figures would park the truck inside.

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Mr. Figures said yes. He took exception to neighbors who stated there was never a business at the site because there were blueprints of various jobs still stored in the existing structure.

Ms. Olivet Henderson stated that she owned property on Avery Street. She noted that the hotel on Sycamore Lane no longer existed. She questioned the affect on her property value and that this would affect her support one way or the other for this application.

Mr. Peebles stated he was unable to give a legal opinion.

Ms. Roberson disputed Mr. Figures' claim that the existing structure was a workshop. She stated that it was a two-car garage.

Mr. McGadney stated that he had one van with ladders on top that he used in his painting business. The vehicle was parked on the side of his residence.

Mr. Joiner stated that he was not a brick mason. He was a crane operator for 35 years.

Mr. Johnny George of 111 Durant Street expressed concern about traffic on Durant Street and access to Spring Hill Avenue. He stated that Durant Street was used as a cut through from Spring Hill Avenue to Old Shell Road.

A brief discussion revealed that there was no record of a business ever being conducted at the subject site. Further discussion showed that there was a residence on the site until it was moved in 1998. Mr. Palombo stated that the structure remaining on the site was a garage associated with the home, and he saw a two-axle vehicle parked partially in the structure as shown in the file photographs. He did not feel there was a hardship on the property to allow for a variance.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to deny the request for a Use Variance to allow a roofing material contractor storage yard in an R-1, Single-Family Residential District.

The motion carried unanimously.

#5130

(Case #ZON2002-01547)

Johnny Roberts, (M. Don Williams, Agent)

22 Lancaster Road

(Southeast corner of Lancaster Road and York Place)

Rear and Side Yard Setback Variances to allow the construction of a carport and laundry room 4' from the side property line and 4' from the rear property line; an 8' minimum side and rear yard setback is required in an R-1, Single-Family Residential District.

The site plan illustrates the existing building and slab, proposed carport, deck, and carport addition.

Mr. M. Don Williams, Williams Engineering, represented the applicant and stated that the house and carport were originally constructed 50± years ago. The carport had been removed. This request was to allow a new carport to be constructed in the same place as the original. They also wanted to construct a 3 ft. by 8 ft. laundry room. Mr. Williams noted that there were other outbuildings in the neighborhood within the 8' setback. He said that the driveway would have to be readjusted to allow the carport to meet the 8' setback requirement. He felt that would make the property out of character with the neighborhood.

There was no one present in opposition.

A motion was made by Mr. Lee and seconded by Mr. Hubbard to approve the request for Rear and Side Yard Setback Variances to allow the construction of a carport and laundry room 4' from the side

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property line and 4' from the rear property line at the above referenced location subject to the following condition:

1. provision of gutters and downspouts.

The motion carried unanimously.

#5131

(Case #ZON2002-01548)

Douglas & Shawn Mitchell

301 Chidester Avenue

(Northwest corner of Chidester Avenue and Jasmine Street)

Fence Height Variance to allow the construction of a 6' solid wooden privacy fence along a side street property line; the maximum height of a fence within 20' of a side street property line is 3', or a minimum side street setback of 20' is required for a corner lot in a R-1, Single-Family Residential District.

The site plan illustrates the existing structure and proposed fence.

Mr. Douglas Mitchell, the applicant, stated they were applying for a setback variance to build a fence over 36" tall. They planned to have a 4' wooden fence with 2' of latticework on top. He felt this would be less intrusive to the neighborhood. The side yard was on Jasmine Street, which is narrow. If they were required to move the fence, they would not be able to use the side yard. The reason for the request was security and safety. People and animals used the rear yard as a cut through. The Mitchells have small children and wanted to limit access as a cut through, as well as to allow the children the opportunity to play outside. He drew attention to photographs of other corner properties in the area with fences over three feet high. He requested approval of the application.

There was no one present in opposition.

A brief discussion centered on the ability of the neighbors on Jasmine Street to back safely out of their driveway. It was determined that if the gate was stepped-down to 48 inches, there should be sufficient visibility for the neighbors to exit.

A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for a Fence Height Variance to allow the construction of a 6' solid wooden privacy fence along a side street property line at the above referenced location subject to the following condition:

1. gate adjoining existing stepped-down portion of rear fence may not exceed 48" in height.

The motion carried unanimously.

OTHER BUSINESS:

Discussion was held to adopt a policy with regard to requests for extensions of previous approvals. Tim Ashley stated that there was a need for a policy to establish a deadline and fee for accepting applications for extension. He cited a recent situation in which an applicant submitted a request for extension following the mailout for the upcoming meeting. Mr. Ashley stated that a hardship resulted in properly preparing Board members for the meeting due to a lack of policy. He related how such requests were handled for the Planning Commission and requested a similar policy.

A motion was made by Mr. Collier and seconded by Rev. Cooke to set the deadline for an extension application to coincide with the regular application deadline and to establish a TWENTY-SIX DOLLARS (\$26.00) fee for such application.

The motion carried unanimously.

APPROVED: September 9, 2002

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/s/ Vice-chairman of the Board

/rm