

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF DECEMBER 5, 2005, - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Reid Cummings, Chairman  
Stephen J. Davitt, Jr.  
H. Lamar Lee  
Vernon Coleman  
Sanford Davis

**MEMBERS ABSENT**

Martha Collier  
William Guess

**STAFF PRESENT**

Frank Palombo, Planner I  
Mae Sciple, Secretary II

**OTHERS PRESENT**

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

Chairman Cummings 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.

**PUBLIC HEARINGS:**

**#5329**

**(Case #ZON2005-01997)**

**L. Lawrence & Elvira Vasquez Carrol**

**1066 Church Street**

(Northeast corner of Church Street and George Street)

**Fence Height Variance to allow the construction of an 8' wooden privacy fence approximately 84' along the George Street (side street) property line; the maximum fence height of 3' is allowed within the 20-foot side yard setback along a side street (George Street)**

Larry Carroll, applicant, stated that currently there was a 3-foot fence along their east property line. Mr. Carroll said it was inadequate for security as well as privacy, noting that they have had a number of break-ins and property stolen. He explained that their driveway runs to the back of their house and was totally exposed and readily accessible to anybody who wanted to walk into their yard. They would like to construct a 6 or 8-foot fence with an electronic gate along this property line to deter people from coming in. Mr. Carroll pointed out the apartments across the street where he said that anytime of the day or night there were from 5-20 people standing around watching them. They felt they had to do something about this side of their property and would conform in every way to the standards of the City and the Historic Development Commission.

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Mr. Coleman asked where the entrance to the fence would be located.

Mr. Carroll said it would be on George Street running north/south toward Church Street. It goes 86' down from the northwest corner, and they have a 120-foot property line on that side.

Mr. Cummings asked Mr. Carroll if he had approached the Historic Development Commission regarding this request.

Mr. Carroll said that would be his next step, depending on the resolution here today.

Mr. Cummings said this was in a historic district, and an 8-foot fence was a fairly tall structure and would create some traffic problems. He asked Mr. Roberts of the Traffic Engineering Department to address this issue.

David Roberts stated that the concern of the Traffic Engineering Department would be site clearance at this intersection.

Mr. Carroll said that the fence would be 36 feet from the Church and George Street intersection, so it would not block any clearance.

Mr. Roberts also pointed out a driveway to the north that was used for access by the storage facility. He said there could be a conflict there. In addition, the applicant would be creating a problem for himself coming out into George Street because of pedestrian traffic northbound on the sidewalk. With an 8-foot fence, pedestrians could not be seen by someone backing out of the driveway. Mr. Roberts also stated that the driveway to the north could have an impact on safety.

Mr. Carroll noted that there were about 30 feet between his driveway and the storage facility's driveway.

In deliberations Mr. Cummings asked if the proposed fence would be allowed under the Historic District Overlay.

Mr. Palombo said that basically it would allow Mr. Carroll to put the fence in line with his building, which was 15 feet from George Street. He explained that any fence higher than 3 feet had to be out of the street setback. In this case his lot was 60 feet or wider, so he would be required a 20-foot setback. Mr. Palombo noted that the Planning Commission had approved a 15-foot setback on this corner lot because of size. That would be his minimum side yard setback with a fence over 3 feet. The applicant, however, has not had approval of the fence by the Architectural Review Board. Typically, they would not approve an 8-foot high fence. Regarding the safety issue, Mr. Palombo suggested the Traffic Engineering Department could work with the applicant.

There was further discussion as to line of sight-clearance and whether the Architectural Review Board would approve an 8-foot fence.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Davis to approve this request for a Fence Height Variance to allow the construction of an 8' wooden privacy fence

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approximately 84' along the George Street (side street) property line at the above referenced location subject to the following conditions:

- (1) approval from the Architectural Review Board prior to the issuance of a fence permit; and
- (2) that the fence location be approved by the Traffic Engineering Department.

The motion carried. (There was one vote in opposition to the motion.)

**#5330**

**(Case #ZON2005-02087)**

**Pete J. Vallas, AIA (Ashland Village, LLC)**

**2401 Old Shell Road**

(Southwest corner of Old Shell Road and Homer Street)

**Sign Variance to allow a 3' x 8' non-illuminated double-sided multi-tenant sign in a LB-2, Limited Business District within 10" from the front property line; the Zoning Ordinance requires free-standing signs to be a minimum of 1.5' from the front property line.**

Pete J. Vallas, applicant, explained that this request was necessary due to an error he had made putting up the existing sign. The post was 18" from the property line as required, however, the actual signs themselves extended over that 18". Mr. Vallas said the hardship was that due to an existing Live Oak on the property, the Urban Forester allowed them to push their parking closer to Old Shell Road than they had originally planned, which left a narrower strip of grass and landscaping to actually place the sign. He said the sign did not extend over the property line, but did come closer than 18". Referring to his drawing, Mr. Vallas pointed out that the sign comes to within 10" of the property line. It was 4 1/2" off the ground and in his opinion it was not a visual barrier for vehicular traffic, nor was there a danger of it being hit by a pedestrian walking by.

Referring to a photo of the sign, Mr. Cummings said that because of the site restrictions, the landscaping had to go pretty tight in terms of the sidewalk. If the applicant were required to move the sign it would be right in the middle of the landscaping because the parking lot was right on the other side of the hedge.

Mr. Vallas said that was correct. He said that judging by the size of the building, the Sign Ordinance allowed an enormous sign there, but they chose to put just a very small attractive sign in keeping with the historic neighborhood.

Mr. Cummings asked if there was anyone present who wished to speak in favor or against the application. There was no response.

Mr. Palombo asked that if approved, the applicant be required to pay the sign permit fees for three signs. The three lower signs had not been permitted. The identification sign, Ashland Village, had been permitted.

After discussion a motion was made by Mr. Coleman and seconded by Mr. Davitt to approve this request for a Sign Variance to allow a 3' x 8' non-illuminated double-sided multi-tenant sign in a

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LB-2, Limited Business District within 10' from the front property line at the above referenced location subject to the following conditions:

- (1) that all applicable fees for the three tenant panel signs on the existing free-standing sign pole that have not been permitted be taken care of; and
- (2) the submission and approval of the sign applications for the three tenant parcels located on the existing freestanding sign.

The motion carried unanimously.

**#5331**

**(Case #ZON2005-02115)**

**Donald C. Ellis, D.C.**

(Southwest corner of Wilson Avenue South and Osage Street)

**Side (Street) Yard Setback Variance to allow a 32' x 52' professional office to be constructed 10' from a side (North) street property line in an B-3, Community Business District; a 20-foot side (street) yard setback is required along a side street in an B-3, Community Business District.**

Jim Sciple, Architect, was present in this matter along with his client, Dr. Donald C. Ellis. Dr. Ellis was the owner of Discover Chiropractic Center and would like to open another office on the subject property. Mr. Sciple explained the application for a side yard variance due to the narrow width of this property, which was 50 feet. They were proposing to develop the site with a 32' wide professional office building, along with an 8' wide covered entrance. This would decrease the width of the property to 10 feet from the side yard street. Mr. Sciple noted that a comment in the staff report suggested that they could extend the building deeper and take a parking space and turn it around onto the north side of the property. He said the problem with that was that they would have to decrease the width of the building even more. Instead of 32 feet, they would end up with a 23' x 61' building, which would not function well as a chiropractic office.

Dr. Ellis stated that he had been looking at this area of town for about three years for a site for another office. He felt there was a need for professionals in this area and noted efforts of the cities of Mobile and Prichard to improve this area. Regarding the narrow width of the lot, Dr. Ellis said he wanted to put something there that was aesthetically pleasing. The lot itself sits up about five feet and has real nice stone cover through the whole width of the lot. It was a beautiful lot for the area. He was proposing six parking spaces, but if he cut back into that depth of the West aspect of the lot, he would lose two spaces. Dr. Ellis felt a new professional office on this site would benefit the area immensely, and possibly encourage further development in the area.

Mr. Davis asked if this site was located where McDonald's used to be.

Dr. Ellis explained that it was right next to the pawn shop.

Mr. Cummings asked if there was anyone present who wished to speak either for or against this application.

Ida Mitchell, a resident of 2368 St. Stephens Road across from the subject property, wanted to know what this proposed development had to do with her property.

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Mr. Cummings explained that this would not affect Mrs. Mitchell's property in any way. The law required that property owners within 300 feet of the property in question be notified of the hearing so they may attend to find out more about the proposal and voice their objections or support if desired.

Viola Davis stated that she had lived at 2366 St. Stephens Road for many years. She also came to the meeting because she received the notice. Ms. Davis said she had no objections as long as it did not affect her property, and did not cause any disturbance in this quiet neighborhood.

There being no one else to speak in this matter, the Board went into deliberation session.

Mr. Cummings noted that there was no access from the subject property to Wilson Avenue, which was a one-way street going away from the subject property. It was asked if there were any traffic or safety issues.

David Roberts of the Traffic Engineering Department said there were no concerns regarding safety. Noting the tight fit in there, however, he would perhaps be concerned about the parking aspect of it as opposed to the safety aspect. Mr. Roberts said he would like to see some kind of a parking site plan.

Mr. Palombo pointed out that a parking plan had been submitted and they had provided the minimum number of parking stalls for the size office proposed.

Mr. Davitt commented that he felt this was really a hardship.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Davis to approve this request for a Side (Street) Yard Setback Variance to allow a 32' x 52' professional office to be constructed 10' from a side (North) street property line in an B-3, Community Business District at the above referenced location.

The motion carried unanimously

**#5332**

**(Case #ZON2005-02116**

**Mark S. Bullis (Gritter Family Partnership)**

(West side of St. Emanuel Street, 80'± North of Short Texas

**Parking, Access/Maneuvering and Landscaping and Tree Planting Variances to allow aggregate parking, access/maneuvering areas with no landscaping and trees an I-1, Light Industry District; parking and access/maneuvering areas must be asphalt, concrete or an approved alternative paving surfaces, and that 12% of the site be landscaped, and the planting of two overstory trees in I-1, Light Industry District.**

Mark Bullis, applicant, stated that currently he had a gravel parking area and would like to leave it as such. He referred to the staff report which indicated several other things that needed to be addressed, which Mr. Bullis said he was not in agreement. He said he had some survey information indicating the trees, the apron and the landscaping on the site. Mr. Bullis said if he

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were to put asphalt down, it would get chewed up in very short order with all the heavy trucks going to the repair shop.

Mr. Palombo noted that the applicant submitted a revised site plan last week, but it was after the reports had been written and sent out. The site plan showed the green space and trees as required by the Ordinance. The only thing he was asking for now was the crushed limestone parking surface.

Mr. Cummings commented that the Board had previously approved an application similar to this in the area. He asked if there was anyone present who would like to speak in favor or against this application. There was no response.

In deliberations Mr. Cummings clarified that the application had been revised and the applicant was only requesting approval of the aggregate surface.

It was asked if some kind of containment was needed for the aggregate.

Mr. Palombo said the Board could require an edging or some type of structure that would stop the aggregate from shifting to other property or the right-of-way.

Mr. Davitt commented that he was okay with the aggregate surface as long as they had something to contain it.

Mr. Cummings suggested requiring some type of concrete apron leading from St. Emanuel Street up into the site and then to a point 4-6' off of St. Emanuel Street.

Mr. Palombo said the applicant showed that on his site plan as curbed.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Coleman to approve this request for Parking, Access/Maneuvering and Landscaping and Tree Planting Variances to allow aggregate parking, access/maneuvering areas with no landscaping and trees in an I-1, Light Industry District at the above referenced location subject to the following condition:

- (1) that the concrete driveway apron be constructed four feet further from the front property line onto the site.

The motion carried unanimously.

**#5333**

**(Case #ZON2005-02142)**

**Michael H. & Melissa A.**

(East side of Drury Lane, 575' ± North of Wimbledon Drive West

**Side Yard, Combined Side Yard and Site Coverage Variances to allow the construction of a single-family dwelling within 8' of the (North) side property line, to allow a combined side yard total of 16' and to allow 45% site coverage; a minimum side yard setback of 8', a 20' combined side yard total and a maximum site coverage of 35% is required for a 70' wide lot in an R-1, Single-Family Residential District.**

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Doug Anderson, representing the applicants, requested this application be held over to allow the applicants time to reconfigure the site plan because of a tree on the northeast boundary line.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Davis to hold this application over for 60 days at the request of the applicants.

The motion carried unanimously.

Mr. Cummings stated that the application would be heard at the meeting of February 6, 2006.

**#5334**

**(Case #ZON2005-02145)**

**David Tunstall & MPT Investments, LLC**

(West side of Cosgrove Drive, 246'± North of Old Shell Road)

**Side Yard and Combined Side Yard Variances to allow the construction of a single-family dwelling within 7' of the (North) side property line and to allow a combined side yard total of 14'; a minimum side yard setback of 8' and a 20' combined side yard total is required for a 60' wide lot in an R-1, Single-Family Residential District.**

Merrill Thomas was present representing MPT Investments and his partner, David Tunstall. Mr. Thomas stated that the subject property was originally a commercial lot, zoned B-2. There was a contingency that required access from Old Shell Road and not from Cosgrove Street. Mr. Thomas said they ran into difficulties getting access across their adjoining property to give them access to Old Shell Road, so they came back to the Planning Commission to get it rezoned to residential so they could build three houses there. They were under the impression that the lots were of similar size. Mr. Thomas said when they got their survey, however, they realized that the lot to the north, the third lot, was narrower. It was 60 feet wide. He noted that when they had the property rezoned there was no opposition from any of the neighbors. Mr. Thomas said the houses they intended to build on this site would be an asset to the neighborhood. He said if they built a narrower and deeper house, it would put them a little closer to their neighbor to the rear, the Brick Pit Barbeque Restaurant, which was also zoned B-2. They were requesting a side setback of 14 feet. Mr. Thomas further noted that they owned the lot to the south. On the lot to the north, the house faced to the north so it would be their rear property line. The line that would be in question to their neighbor to the north was the rear property line.

Mr. Cummings asked if there was anyone present who wished to speak in favor of or against this application. There was no response.

Mr. Davitt said if they redesigned the house, he assumed that was the parking garage on the south side.

Mr. Thomas said he did not have the plan Mr. Davitt was referring to. He said they would have to have a totally different footprint and it would just be a narrower house. The house would be 46 feet wide.

Mr. Cummings asked if anyone had ever suggested a PUD.

Mr. Palombo said that was the reason for the variance application.

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Mr. Cummings commented that from experience he could say that a 46-foot wide footprint made for a difficult footprint, and he could see the need for going in that direction.

Mr. Davitt asked what the total square footage of the house was, under roof.

Mr. Merrill said it was 1500 square feet. He thought it was 25 percent coverage.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Davis to approve this request for Side Yard and Combined Side Yard Variances to allow the construction of a single-family dwelling within 7' of the (North) side property line and to allow a combined side yard total of 14' at the above referenced location.

The motion carried unanimously.

**#5335**

**(Case #ZON2005-02147)**

**2066 Old Shell Road, LLC**

**2068 Old Shell Road**

(Northeast corner of Old Shell Road and Upham Street)

**Parking Ratio Variance to allow the conversion of 4,611 square-feet of a multi-tenant, retail tenant space (5,935 total square-feet) to restaurant use with 43 parking spaces; the Zoning Ordinance requires one space per 100 square feet for restaurant use and 1 space per 300 square feet for retail/office space for a total of 52 spaces (47 restaurant and 5 retail/office).**

The applicant was present and withdrew this application.

**#5336**

**(Case #ZON2005-02149)**

**Richard Stallworth**

**1755 Duval Street**

(South side of Duval Street, 100'± East of Amsterdam Court)

**Use, Parking Ratio, Parking Surface and Access/Maneuvering Variances to allow an automobile service garage (1,700 square-feet) in a R-1, Single-Family Residential district with two (2) on-site parking spaces with an aggregate parking surface and a 13' wide two-way drive; the Zoning Ordinance requires a B-3, Community Business District zoning, a minimum of six (6) on-site parking spaces, parking surface of asphalt, concrete or an approved alternative parking surface and a 24' wide drive for two-way traffic.**

Tim Spafford, of Architecture and Design, was present assisting Mr. Stallworth with his application. Mr. Spafford explained that Mr. Stallworth operated an automobile repair garage out of an existing building on Duval Street at this location. Although the exact history of the building was unknown, it was used as a business for many years and at one time was used as an apartment. Mr. Spafford said the property was zoned R-1, but was never constructed as a residence. It was more or less a utility building that had improvements over time to make it where it could be lived in. It did not meet the code requirements for a residence, however, as far as access to the second floor. Mr. Spafford said the applicant proposed to screen the repair



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garage activities from the adjacent residential neighbors with a 6' wood privacy fence, and plant a couple of heritage trees along Duval Street to comply with the landscaping requirements. He were therefore requesting a variance on the use, parking ratio and parking surface. Mr. Spafford referred to the staff report which indicated this property had a 13-foot wide, two-way drive. Mr. Spafford explained that there were two existing aprons at this location, one of which was approximately 22 feet. The 13-foot wide drive served an adjacent piece of property. Mr. Spafford said there were two vacant lots to the West. On Duval Street there were a number of commercial properties and there were also some vacant buildings and empty lots which they felt were a detriment to the neighborhood. Mr. Stallworth's long range plan was to grow and build a permanent building.

Mr. Cummings asked if Mr. Stallworth's long range plan was to build a permanent building on this site for his business.

Mr. Spafford said that was correct. He also planned to purchase the next two lots to the West. That was in his future plans. He had nothing definitive right now.

Mr. Davitt asked if Mr. Stallworth was currently operating his business on this property.

Mr. Spafford replied that he was. He had been operating there since March of this year.

Mr. Davitt asked Mr. Stallworth if he had a permit to operate on this property.

Mr. Palombo stated that Mr. Stallworth had no business license and no permit. Further, there was no documentation to determine if this was a non-conforming use or not. At some time it ceased being a duplex or a single-family residence and was converted or torn down. What remained was probably a utility building in the back of the garage.

Mr. Cummings pointed out the B-2 zoning across the street from the subject property, but the entire block inside of Duval, Amsterdam, Rotterdam and Taylor Lane was currently zoned R-1. Also, all the residences that were behind this building and which fronted on Rotterdam, Amsterdam and Taylor were currently being used as residences.

Mr. Cummings asked if there was anyone present who wished to speak in opposition to this application.

Timothy Poellnitz was present and said he owned property on Duval Street which was currently vacant. Mr. Poellnitz said he received a notice in the mail saying that they wanted to use his property for parking, etc., and he wanted to see what this was all about.

Mr. Cummings explained that the variances were requested just for the property owned by the applicant that was next door to Mr. Poellnitz's property. He asked if Mr. Poellnitz had plans to live on his property or try to rent it out at some point in the future.

Mr. Poellnitz said yes. He planned on building a home in the future.

Mr. Cummings asked if there was anyone present who wished to speak in favor of the application.

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There was no response.

Mr. Cummings referred to photos of the site and noted that there were 10 vehicles and a very large dump truck on the property. Mr. Stallworth had mentioned that he would have two on-site parking spaces. Mr. Cummings asked if this variance were granted, would that many vehicles continue to be parked on the site.

Mr. Stallworth replied that they would not.

Mr. Spafford said some of those vehicles were on the vacant property.

Mr. Cummings further commented that a use variance was the toughest type of variance to grant because the burden on the applicant was to show the Board why the property could not be used for the purpose for which it was zoned. He said he had no problem with the nature of Mr. Stallworth's business. He noted, however, that this was a residentially zoned property and the type of business he wanted to operate was a very heavy use in terms of zoning. It was three or four rungs up the zoning ladder from what it was zoned now. Mr. Cummings said that was the concern here, as the statute was very clear. He asked Mr. Stallworth if he could speak to why there was a hardship for the property as to why it could not be used for R-1 for which it was zoned.

Mr. Spafford asked if he could comment. He said it was his understanding on the history of this property was that one option was to be grandfathered in with a business operating on a residentially zoned property, but Mr. Stallworth and previous owners could not document how long the building had been used as a business. It was used as an apartment or living quarters at some point, but Mr. Spafford suggested if you were going to use the property for residential it would be better to tear this building down and build a new residence. He did not think that would be feasible, as it was right on Duval Street, a very busy street. Also, he said this was not a growing neighborhood.

Mr. Cummings said that on the upside, in terms of this application, he pointed out B-2 zoned property up and down Duval Street. The block that fronts on Duval between Rotterdam and Brussels was all B-2. One street to the West on the other side of Amsterdam was B-2 as well. Mr. Cummings said it appeared zoning was currently going in that direction.

Mr. Spafford stated that when Mr. Stallworth buys the two adjoining lots and expands his business, this site would come into full compliance at that time and there would be one business on that lot.

Poellnitz asked what effect the expansion of this business would have on his property.

Mr. Spafford said it would not affect Mr. Poellnitz's property.

Mr. Cummings asked if there had ever been anything on the lot next door.

Mr. Palombo said he had searched the records and determined that there had never been a business license issued on this address.

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Mr. Davitt felt this was a residential neighborhood. He said maybe it was starting to convert to more of a commercial type, but to allow a garage with auto mechanic services was a little bit more than he would be comfortable with right now.

A motion was made by Mr. Davitt and seconded by Mr. Lee to deny this application.

In further discussion Mr. Coleman pointed out that there had been an auto repair business in that neighborhood on Rotterdam Street for years. He thought at one time there was an upholstery shop on the subject property, so it was commercial. Mr. Coleman said most of the property in the area now was going to absentee landlords and was deteriorating. He felt someone who was going to improve the property would be an asset rather than a detriment to the neighborhood.

Mr. Lee asked what the probability was of getting the land use changed through the Planning Commission.

Mr. Lawler said that if the neighborhood was changing, an application could be made with the Planning Commission to have the actual zoning changed.

Mr. Palombo commented that it would be a tough sell for B-3 within the middle of the block.

Mr. Cummings asked if this general area was scheduled for review for rezoning at any time.

Mr. Palombo said it was not. He said rezoning that whole side of the street B-2 would not help the auto mechanic shop, as that was a B-3 use.

In light of Mr. Coleman's comments, and rather than just letting this become an eyesore, Mr. Davis suggested some kind of consideration could be given and re-route this application to another department to try to address this.

Mr. Palombo explained that if the staff had been consulted about a business license for this property when the business began operating in March, it would not have gotten this far.

Mr. Cummings reiterated that a use variance was the most difficult type of variance to approve. Once a variance is granted, it stays with that piece of property for as long as the business was operating, and it tended to change the course of the direction of all surrounding property. In many cases when the Board sees a use variance application it does everything it can to try to accommodate it, but at the same time tries to suggest that maybe the direction to go is to seek rezoning of the property. Mr. Cummings said he appreciated the comments made by Mr. Coleman and Mr. Davis and did not disagree with them, but wanted them to understand that the Board was being asked to grant a variance for a piece of property that was zoned for use as single-family residential, to allow, at the other end of the spectrum, it to be used as an auto repair shop, and it was a very difficult thing for the Board to consider.

Mr. Lee called for the question.

The motion to deny carried.

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In further discussion Mr. Cummings suggested that Mr. Stallworth consider going to the Planning Commission and attempt to get the property rezoned. Also, if he chose to go in that direction, Mr. Cummings suggested he contact the owners of the property at the corner where Amsterdam Court and Duval Street intersected and ask if they would jointly apply to have both of those pieces rezoned to B-2. Mr. Cummings said it would not help with the auto repair business, but it would be an easier jump the next time.

Mr. Palombo asked what type of mechanical work Mr. Stallworth did in this shop.

Mr. Stallworth said it was all general, basic mechanical work such as alternators, starters, brake work, etc.

Mr. Palombo said that type of work would be allowed in B-2.

Mr. Stallworth stated that he had gotten his State license and certification to get parts back in March and thought that was all he needed to open his business. When he later called the City to find out if he needed anything else, he was denied a license. He said he was not aware that he needed a City license.

Mr. Palombo asked if the Board could hold this application over for 30 days and let Mr. Spafford submit a plan typical of what was going to happen on this piece of property and a description of the work. He noted that oil changes and general vehicle repair were allowed in B-2.

Mr. Cummings said he had no problem with that and felt the rest of the Board would have no problem with it either.

Mr. Cummings called for a motion to rescind the previous vote on the previous motion to deny the request.

Such motion was moved by Mr. Davis and seconded by Mr. Coleman. The motion carried unanimously.

The Chairman entertained a motion to table this matter for up to 90 days to allow the applicant the opportunity to submit an application to the Planning Commission to have this site rezoned to B-2 in order to accommodate his use.

Such motion was made by Mr. Coleman and seconded by Mr. Davis. The motion carried unanimously.

**#5337**

**(Case #ZON2005-02152)**

**Mystics of Time**

**1012 South Franklin Street**

(Northwest corner of South Franklin Street and Pillans Street)

**Front Yard Setback and Side (Street) Yard Setback Variances to allow the construction of a (15,965 sq.ft.) float barn within 2' of the front (East) property line, within 9' from the side (South) property line; the Zoning Ordinances requires a minimum 25' front yard setback, a side (street) yard setback of 20' in an I-1, light Industry district.**

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Mr. Davitt recused himself in this matter.

Stan Coarsey, representing the applicants, presented this request which would allow this organization to construct one large building on this site to replace the two buildings that were destroyed or severely damaged by Katrina. Mr. Coarsey noted that everything in this area were warehouses for Mardi Gras associations. This variance would allow them to maximize the size of the proposed building and still have a lot of green area. They had people who worked on the floats throughout the year, but never more than two or three at a time, so parking was not a problem.

It was asked if any of the previous buildings on this site prior to Katrina were operated under a variance.

Mr. Palombo said no, although a variance was granted this past summer for another organization directly across the street.

Mr. Cummings asked if there was anyone else present either in favor of or opposed to this application. There was no response.

After discussion a motion was made by Mr. Lee and seconded by Mr. Coleman to approve this request for Front Yard Setback and Side (Street) Yard Setback Variances to allow the construction of a (15,965 sq. ft.) float barn within 2' of the front (East) property line, within 9' from the side (South) property line at the above referenced location subject to the following condition:

- 1) full compliance with the tree planting requirements of the Zoning Ordinance, to be coordinated with Urban Forestry.

The motion carried unanimously.

**#5338**

**(Case #ZON2005-02153)**

**Ken Heyl**

**57 South Catherine Street**

(East side of South Catherine Street, 107' ± North of Brown Street)

**Use, Parking Surface and Access/Maneuvering Variances to allow a bed and breakfast in an R-1, Single-Family Residential District with aggregate surface parking lot and a 13' wide two-way drive; the Zoning Ordinance requires B-1, Buffer Business with Planning Approval, parking surfaces to be asphalt, concrete or an approved alternative paving surface and a 24' wide drive is required for two-way traffic.**

Ken and Cathy Heyl, applicants, were present in this matter. Mr. Heyl said they had recently moved to Mobile, although his wife grew up in this area and they had owned a home in Washington county for many years. They had been coming to Mobile once a month for many years. Mrs. Heyl said that she grew up visiting this house, which was owned by her great aunt, so it was a very special piece of property for them.

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Mr. Heyl said this home had been in their family since the 1950s. It was one owner, of the home prior to that, in the late 1890s. It was always a single-family home. His wife's aunt and uncle raised their five children in this five bedroom, 2-bathroom home. Mr. Heyl said they proposed to remodel it into a 6-bedroom, 6 ½-bathroom bed and breakfast, which would utilize the property and the structure very well. He noted that there was a bed and breakfast across the street at the corner of Catherine and Monterey, which was allowed by a variance some time ago. They had become good friends of the owners and they approved of their getting a variance for the subject property. Mr. Heyl said they intended to have concrete driveways from the street to approximately where the house was setback, and then use gravel for the parking lots and for the driveway to go around the back of the building. They would do extensive landscaping in the back. What was a screen porch was being converted to a breakfast room, with the idea that the people enjoying breakfast there would be able to look back at the gardens, and they did not want to have a concrete driveway going right in front of their view. Mr. Heyl said they were requesting two 13-foot driveways, one-way rather than 22 or 24-foot driveways so they could enter on one side and exit on the other.

Mrs. Heyl pointed out that there were two large Live Oaks where the existing driveway was now, and they wanted to move it more in the center of those Live Oaks to allow the roots to continue to have the space they needed.

Mr. Heyl pointed out on the site plan that the existing driveway was right on the property line. The 13' apron was in good shape, but the driveway was a very skinny one, just two strip of concrete. They intended to make a regular driveway there and move it away from the property line slightly.

Regarding the one-way drive, which would go around behind the property, Mr. Cummings asked if there would be sufficient room for delivery trucks and whatever to maneuver in and around.

David Roberts, Traffic Engineering Department, stated that for a one-way in and on-way out such as was proposed, 14-16 feet would be required for access.

Mr. Cummings asked if the applicants had already sought approval of the Old Dauphin Way Historic District.

Mr. Heyl said he had been to the City Historic Development Commission. Mrs. Heyl said she had spoken with representatives of the Old Dauphin Way Historic District a number of times.

Mr. Coleman asked how many feet the applicant had moved the driveway off of the existing line.

Mr. Heyl said the 13' apron was already there, but the driveway entered off the right hand part of the apron. If you drove in straight on the apron you would drive on the grass. They proposed to use the apron but extend the driveway to the left so that the driveway was properly built.

Mr. Cummings noted that the application stated that the applicants would live in the house.

Mr. Heyl said that was correct. They would be the owner/operators.

Mr. Cummings asked if the Board had any questions of the applicants.

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Mr. Davitt asked Mr. Heyl if, rather than using aggregate for the parking, they would consider using something like grasscrete.

Mr. Palombo said they used grasscrete at South Alabama. It has a structure underneath it and they put gravel or grass over it. With the amount of traffic this use would have, however, Mr. Palombo, did not think this would be good to use for this driveway. For the parking spaces, however, that may be all right.

Mr. Heyl said concrete would only be in the front. They intended to use gravel all the way around the back.

Mr. Palombo said that typically the Historic Development Commission liked to see the pea gravel or the gravel. It has more of a residential feel to it than the asphalt or concrete.

For the Board's reference, Mr. Heyl pointed out that the bed and breakfast across the street used gravel for their driveway.

Mrs. Heyl said she just wanted it to look a little bit better than gravel when you turn in.

Mr. Cummings agreed. Also, the concrete apron would tend to contain it.

Mr. Palombo asked how many bedrooms were going to be designated for the bed and breakfast.

Mr. Heyl said there were six bedrooms, and four of them would be rentable.

Mr. Palombo noted that parking met the minimum requirements.

If approved, Mr. Coleman asked if it would be with the stipulation that the Traffic Engineering Department would require a minimum driveway of 14 feet.

Mr. Roberts said that was not set in stone. He said it was something they would like, but this was so close to the 14 feet that he thought they could work with that.

With regard to traffic, Mr. Heyl said exiting this driveway was extremely difficult because of the Live Oak tree and the speed hump, which was directly in front of the Live Oak at the edge of the driveway. That meant traffic backed up in both directions and it made going out very difficult. Going out of the new proposed driveway would be a lot clearer and easier for people to see where they were going and be able to get out safely.

Mr. Roberts stated that they would like to get some sort of signage denoting this one-way application.

Mr. Heyl said they would like as little signage as possible, but would agree to that.

As to the traffic-calming device, Mr. Roberts said they were put in at the request of the neighborhood.

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After discussion a motion was made by Mr. Coleman and seconded by Mr. Davitt to approve this request for Use, Parking Surface and Access/Maneuvering Variances to allow a bed and breakfast in an R-1, Single-Family Residential District with aggregate surface parking lot and a 13' wide two-way drive at the above referenced location subject to the following condition:

- 1) the provision of signage designating a one-way drive, such signs to be placed strategically and not hinder traffic on South Catherine Street, to be approved by Urban Development and Traffic Engineering.

The motion carried unanimously.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED: February 6, 2006**

**Reid Cummings  
Chairman of the Board**

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