

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF JANUARY 9, 2006 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
Stephen J. Davitt, Jr.
William Guess
Martha Collier
Vernon Coleman
Sanford Davis
J. Tyler Turner, III

MEMBERS ABSENT

STAFF PRESENT

Margaret Pappas, Deputy Director of
Permitting and Development
Frank Palombo, Planner I
Mae Sciple, Secretary II

OTHERS PRESENT

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.

ANNOUNCEMENT

Chairman Cummings introduced and welcomed to the Board Mr. J. Tyler Turner, III. Mr. Turner is taking the seat formerly occupied by Mr. Lamar Lee.

APPROVAL OF MINUTES:

A motion was made by Mr. Davitt and seconded by Mr. Coleman to approve the minutes of the meeting of November 7, 2005, as submitted. The motion carried unanimously.

PUBLIC HEARINGS:

#5339

(Case #ZON2005-02376)

Arman Khoshkhoo

2150 Dauphin Street

(Northwest corner of Dauphin Street and Upham Street)

Side Yard Setback, Side (Street) Yard Setback and Combined Side Yard Setback Variances to allow a (7' x 9') addition to a residential structure within 5.66-feet of a side property line, to allow a (14' x 14') addition within 10.84-feet of the side (street) property

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line and to allow a total combined side yard of 16.5-feet; an eight-foot setback is required from a side property line, a 19.8-foot side (street) yard and a total combined side yard total of 27.8-feet is required for residential structures on a lot 58 feet wide in a R-1, Single-Family Residential District.

Arman Khoshkhoo, applicant, was present and concurred with the staff recommendation.

Mr. Cummings asked if anyone on the Board had any questions.

Ms. Collier stated that she had visited the applicant's property and noticed that there was a lean-to on the fence on the east line of the property. She asked if that was to be a part of the addition.

Mr. Koshkhoo said the structure was there when he bought the house, but it was not part of the application.

Mr. Palombo felt the applicant may not be clear about the structure in question, and clarified that it was on the fence at the rear on the east property line.

Mr. Koshkhoo said that was a storage room and would be removed because there was no room for that with the proposed addition.

Mr. Palombo suggested that the removal of the storage room could be made a condition of approval.

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

After discussion a motion was made by Ms. Collier and seconded by Mr. Davitt to approve this request for Side Yard Setback, Side (Street) Yard Setback and Combined Side Yard Setback Variances to allow a (7' x 9') addition to a residential structure within 5.66 feet of a side property line, to allow a (14' x 14' addition within 10.84 feet of the side (street) property line and to allow a total combined side yard of 16.5 feet at the above referenced location subject to the following conditions:

- 1) that the storage building on the east side property line be removed; and
- 2) the provision of gutters and downspouts.

The motion carried unanimously.

#5340/5310

(Case #ZON2005-02387)

Centre for the Living Arts (City of Mobile)

250 Conti Street

(Northwest corner of Joachim Street and Conti Street)

Sign Variance to allow a 100 square foot (50 square foot per side), illuminated, double sided, marquee projecting sign with chasing border lights extending 10-feet beyond the building wall and overhanging the full width of the sidewalk; the Zoning Ordinance limits projecting signs within historic districts to a maximum 40 square feet, prohibits chasing

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lights, no sign may project more than 5-feet from the building wall and all signs and sign structures may project two-thirds of the distance from the building to the roadway.

Mr. Cummings asked the applicant if he had seen the staff recommendation.

Chris Penton, representing the applicant, stated that he had not seen the recommendation.

Asked if he had anything further to add to the presentation made in the staff report, Mr. Penton said he did not.

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

Mr. Cummings asked if anyone on the Board had any questions.

Mr. Davitt stated that the Board approved a variance for this site in June of last year for a 75' square sign, and now they were requesting approval of a 100' sign. He asked if, next July, the Board would be presented with an application for a 125' sign.

Mr. Penton said no. He explained that the previous approval was for a vertical sign. Since then, studies had been done of the structural support of the façade of the building and it was determined that it would not support that size of vertical sign. This application was for a considerably smaller, horizontal sign.

Ms. Collier stated that the Ordinance allowed a 40' sign. She asked why they felt it necessary to have a 50' sign.

Mr. Penton said they were trying to take advantage of the full size of the canopy that was being built, and the sign would be equal to the size of the canopy. The canopy would be supporting much of the weight of the sign, whereas before, the vertical sign would have been supported by the façade of the theater itself.

Ms. Collier further noted that this street was not very wide. She also said that the Ordinance prohibited running lights in any part of the downtown historic district. Her concern was that every bar and grill in town would want to have running lights if this were approved. Although it had been noted that Hattiesburg and New Orleans had the running lights, and that that might have been characteristic of the Saenger Theater itself when it was built, Ms. Collier asked what their argument was for the present day need for running lights in a historic district that did not want them.

Mr. Penton said they felt the running lights would set them apart from anything else downtown when people were driving by looking for the theater. Also, he felt it added a certain degree of glitz and glamour to the experience of coming to the theater to see a performance.

Ms. Collier also asked why the applicant did not use the word "theater" in the sign.

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Mr. Penton said that went back to the original signage that was on the theater, which did not say "Saenger Theater". It just said "Saenger". He felt the reason for that was to differentiate between several other theaters that were in a theater district at that time.

Mr. Cummings asked if the original signs that were on the theater had similar lights that moved.

Mr. Penton said yes, they did have moving lights.

Mr. Davitt asked if the existing theaters in Hattiesburg and New Orleans had the chasing lights.

Mr. Penton said that they did have chasing lights.

Mr. Turner expressed his concern that approval of this sign with chasing lights in a historic district would set a precedent, and other older buildings in the historic district in downtown Mobile would want the same type of sign.

Mr. Cummings said he felt the difference would be that this originally was the Saenger Theater, has been the Saenger Theater, and is the Saenger Theater, whereas a lot of the bars and clubs that were downtown now no doubt were in older buildings, but no one to his knowledge claimed to have been there since 1927.

Mr. Turner also noted that this theater was pretty much in the heart of Mobile's new art district, and asked if that would kind of take away from the ambience of what was there. He also felt the chasing lights were not necessary, as there was not that much rolling traffic downtown looking for a theater. The city diplomats were also roaming the streets to give directions.

Mr. Cummings stated that the application had already been before the Architectural Review Board (ARB) which deals with issues like this in a historic district. Their recommendation was for approval. Mr. Cummings said it was not this Board's purview to decide whether or not it would add to or detract from tourism, or whether it fit inside the historic district. That was up to the ARB.

Ms. Collier said it was the Board's responsibility to take note of the existing ordinances.

Mr. Cummings said he understood, but again, the creation of the Saenger, the operation of the Saenger, the establishment of the Saenger and pretty much continuous operation of the Saenger as a theater within a historic district had been so for over 70 years. He felt that would be the difference between the Saenger in this particular location in the historic district downtown and other bars and restaurants that occupied locations within historic buildings in the downtown area.

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 100 square foot (50 square foot per side), illuminated, double sided, marquee projecting sign with chasing border lights extending 10 feet beyond the building wall and overhanging the full width of the sidewalk at the above referenced location.

In further discussion, Mr. Cummings said that with the exception of perhaps Hoffman's, he could not think of another user that might come before the Board and say that they had been

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continuously downtown in the historic district for 70 years and wanted to do what they did when they came down there 70 years ago. Mr. Cummings asked Mr. Lawler if he had any comments.

Mr. Lawler agreed with Mr. Cummings. He felt this related more to the Saenger since it is the Saenger, and is going to be the Saenger, than it would if some other business was going to try to go back and capture someone else's history as opposed to their own. A variance relates to one particular piece of property. He felt this would be enough difference so the Board would not be bound to granting a similar variance in the future.

After discussion Mr. Cummings called the question. The motion carried unanimously.

#5341

(Case #ZON2005-02421)

Dennis Fobes

3308 Riverside Drive West

(West side of Riverside Drive West, 575' ± North of Marcia Drive)

Side Yard Setback Variance to allow the expansion of a single-family dwelling within 5-feet of the side (North) property line; the Zoning Ordinance requires a minimum side yard setback of 8' for a lot that is 60' wide or wider at the minimum front building setback line in an R-1, Single-Family Residential District.

Don Williams, of Williams Engineering, was present representing the applicants, Mr. And Mrs. Fobes, who were also present. Mr. Williams stated that the house in question was a two-bedroom structure built in the 1950s and was built up to the north property line. The house had either a 9' side yard setback or a 5' side yard setback. Fourteen feet of the house right now had a 5' side yard setback from the north property line. Mr. and Mrs. Fobes wanted to make this their full-time residence, but it was not sufficient for their needs as far as size and they would like to make two additions. They were limited in several areas.

If they go farther to the front they would be getting closer to Dog River, which would be blocking some views of the residents on either side of them. Also, it would take them pretty close to a steep bluff, which goes back down to the river. If they extended to the south they would run into a 20-inch water oak, which is 5-8 feet away from the house. They proposed to expand to the rear with a continuation of the 5-foot side yard setback for another 31 feet to the rear of the single-story house. They have also chosen to go up with a two-story middle section, which would be indented so that it would be 24 feet from the north property line.

Mr. Williams said this was a neighborhood of large houses. The Fobes wanted to build bigger and actually go larger than the houses around them. The house that shared this driveway with this house, however, was significantly larger than the Fobes' residence. They have contacted both the neighbors to the right and the left of them, who have seen the building plans and have written letters, which the members had in their packets, to the effect that the addition would be a complement to the neighborhood. Even the neighbor who lives to the north, who would be 5 feet away and most impacted, had no objections and felt this would be an improvement to the neighborhood.

Regarding the statement in the staff report that the proposed addition would further degrade the likelihood of the wooded vegetative buffer to survive due to the proximity (3 feet) of the

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addition, Mr. Williams said the vegetation was actually on the neighbor's property. There was a chain link fence that actually ran along the property line, so most of the wooded area was already on the neighbor's property, which they would not be able to touch. As it goes further to the Fobes' property to the rear away from the river, it gets more thickly wooded, and that part of the addition would be stopping just short of the wooded area. Therefore, they would minimize the impact of the cut vegetation that was there now. (Mr. Williams passed out pictures to the Board.)

He noted that the tree prevented them from expanding to the south. Mr. Williams said that by going up they had minimized the footprint. They would be continuing a 5-foot existing side yard setback that had been there for 50 years or more. Their request was that they be allowed to expand to the side, to the north and upward for the second floor.

Mr. Cummings asked the applicants if they had anything to add. They did not. For the record, Mr. Cummings noted that there was no one else in the audience, so there was no one present for or against. He asked if there were any questions from the Board members.

Mr. Davitt asked about the flood elevation.

Mr. Fobes stated that they were now at 22 feet above sea level.

Mr. Williams stated that Dog River in that area was around 10-11' FEMA elevation. Being on the bluff, they felt they were well protected from a high water level, and the expansion would be at that similar high level. He noted that they would have to get an elevation certificate as part of the building permit process.

Mrs. Fobes commented that they did not flood during Katrina.

Ms. Collier stated that she went out to view this property, and her concern was that there was not enough room for access between the buildings for emergency vehicles. The Ordinance required 8 feet, and this was only 5 feet.

Mrs. Fobes said that the closest residence was more than 100 feet away.

Mr. Fobes said their neighbor to the side of them was set significantly further back from Dog River, so the entire width of it would be in front of the other house.

Ms. Collier pointed out that there was a fence on the property line.

Mr. Williams said there was a chain link fence there with vegetation.

Mr. Williams said they felt comfortable that the shared driveway for the Fobes' house and the house to the south would be sufficiently wide and open to allow fire fighters to have access.

Mr. Davitt asked if the proposed construction would be in line with the existing bay window

Mr. Williams said the bump-out and the 5-foot setback would be continued all the way to the rear.

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Ms. Collier asked about the possibility of extending further back to get the same square footage.

Mr. Williams said there was a chance of that, but it would make the room arrangement on the inside very awkward to be able to have the stairs going to the second floor.

Mr. Cummings said it appeared from the elevations that if the variance were granted and this addition built, by the time they go up as well, they would be adding some symmetry to the house that does not exist now.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Davis to approve this request for a Side Yard Setback Variance to allow the expansion of a single-family dwelling within 5 feet of the side (North) property line at the above referenced location.

The motion carried unanimously.

OTHER BUSINESS

Election of Officers

Mr. Cummings announced that it was time for election of officers – Chairman and Vice-Chairman – for the next one-year period.

Mr. Davitt moved to nominate Mr. Cummings to serve as Chairman for another year. The motion was seconded by Mr. Davis. The motion carried unanimously.

Mr. Cummings moved to nominate Mr. Davitt to serve as Vice-Chairman for another year. The motion was seconded by Mr. Coleman. The motion carried unanimously.

There being no further business, the meeting was adjourned.

APPROVED: February 6, 2006

Reid Cummings
Chairman of the Board

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