

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF SEPTEMBER 12, 2005, 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Reid Cummings, Chairman  
Stephen J. Davitt, Jr., Vice-Chairman  
H. Lamar Lee  
William Guess

**MEMBERS ABSENT**

Martha Collier  
Vernon Coleman  
Sanford Davis

**STAFF PRESENT**

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

**OTHERS PRESENT**

David Roberts, Traffic Engineering  
David Daughenbaugh, Urban Forestry  
Wanda Cochran, Assistant City Attorney

Reid Cummings, Chairman, 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.

**EXTENSIONS:**

**#5160**

**(Case # ZON2003-00050)**

**Krewe of Marry Mates, Inc.**

**810 Kentucky Street**

(Area bounded on the West by South Washington Avenue, on the South by Kentucky Street, on the East by South Scott Street, and the North by Tennessee Street [unopened] and Illinois Central Gulf Railroad right-of-way)

**One-Year Extension, Use Variance to allow the construction of three 200' x 90' float barns in a B-3, Community Business District and a R-2, Two-Family Residential District; float barns are allowed with Planning Approval in a B-4, General Business District and allowed by right in an I-1, Light Industrial District.**

After discussion a motion was made by Mr. Lee and seconded by Mr. Guess to approve this request for a one-year extension of a Use Variance to allow the construction of three 200' x 90' float barns in a B-3 Community Business District and a R-2, Two-Family Residential District at the above referenced location.

The motion carried unanimously.

**PUBLIC HEARINGS:**

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#5319

(Case #ZON2005-01619)

**Bernard Augustine Wood, IV**

**3511 Irene Street**

(South side of Irene Street, 92'± West of Stillwood Lane)

**Side Yard and Rear Yard Variances to allow the construction of a single-family dwelling within 5-feet of the (West) side property line, and to allow the construction of a detached 21' x 28' two-car garage/storage structure within 5-feet of the (East) side property line and within 5-feet of the rear property line; an 8' minimum side yard and rear yard setbacks are required on a 60' or wider lot in a R-1 Single-Family Residential District.**

Bernard Wood of 3511 Irene Street, applicant, presented this request which would give him three additional feet on the East side property line and on the rear property line. The plot plan shows an existing row of azaleas on the site and the extra space would be needed to safely maneuver around the house to get into the carport.

Harry Schaub, whose property adjoins Mr. Wood's property at the corner of Stillwood Lane and Irene Street, stated that he had no objection to the proposed variance.

Tucker Yance stated that he owned the property at 409 Stillwood Lane, which bordered Mr. Wood's property to the south, and was currently in the process of building his house there. Mr. Yance said he had no objection, however, it would be better for him if both variances were granted, shifting the carport five feet over to the east as well as to the south. He said the more westerly the carport moves, the more it comes into his view from his bedroom.

Mr. Wood added that due to the slope of the property, in order to divert water away from his property and Mr. Schaub's property, he would like to have the house moved closer to the west toward Leon Nelson's property. Mr. Nelson was not able to attend the meeting today. Mr. Wood said it would be a lot easier for him to divert that water down his driveway if he had more room to work with.

Mr. Cummings asked how much of a slope it was from Irene Street moving south.

Mr. Wood said it was going uphill about seven feet from Irene Street up to the back right corner of his lot.

Mr. Guess asked if a retaining wall was required as part of his redirecting the water flow.

Mr. Wood said a retaining wall was not required, but he had already built a retaining wall an inch off the south line and right on the west line of the property. It was retaining about 40 inches of soil on the southwestern corner, and going down to about 20 inches on the southeastern corner.

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

A motion was made by Mr. Davitt and seconded by Mr. Lee to approve this request for Side Yard and Rear Yard Variances to allow the construction of a single-family dwelling within 5 feet of the (West) side property line, and to allow the construction of a detached 21' x 28' two-car garage/storage structure within 5 feet of the (East) side property line and within 5 feet of the rear property line at the above referenced location.

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In further discussion Ms. Pappas requested that the approval require the provision of gutters and downspouts on the house as well as on the garage.

After discussion Mr. Davitt amended his motion and Mr. Lee his second to approve this request for Side Yard and Rear Yard Variances to allow the construction of a single-family dwelling within 5 feet of the (West) side property line, and to allow the construction of a detached 21' x 28' two-car garage/storage structure within 5 feet of the (East) side property line and within 5 feet of the rear property line at the above referenced location subject to the following condition:

- 1) the provision of gutters and downspouts.

The motion carried unanimously.

**#5320**

**(Case #ZON2005-01626**

**Image Designs, Inc. (R.P.I.-Rite Development, Owner)**

**171-A East I-65 Service Road South**

(East side of East I-65 Service Road South, 700'± South of Emogene Street)

**Sign Variance to allow two wall signs; a maximum of one wall sign per tenant space is allowed on a multi-tenant site with one street frontage.**

There was no one present to represent the applicant in this matter.

A motion was made by Mr. Lee and seconded by Mr. Davitt to deny this request for a Sign Variance to allow two wall signs at the above referenced location because there was no one present to present the application, thus there was no evidence presented to the Board illustrating that the Zoning Ordinance caused an unnecessary hardship to the property. As such, the Board was without authority to grant a variance.

The motion carried unanimously.

**#5321**

**(Case #ZON2005-01631)**

**Gerald T. Still (Tim Reilly, Owner)**

**12 North Lafayette Street**

(East side of North Lafayette Street, 250'± North of Dauphin Street)

**Use, Parking Surface and Substandard Access Variances to allow a bed and breakfast (four guest beds), gravel drive-way and parking area, and an 11-foot wide driveway, in an R-1, Single-Family Residential District; a Bed and Breakfast requires a minimum of a B-1, Buffer Business with Planning Approval, asphalt, concrete or an alternative parking surface, and a 24-foot wide driveway is required for a two-way drive.**

Gerald Still, 5716 Markee Court, was present representing Tim Reilly, owner of the subject property. Due to the width of the property and the structure in place where it was, they had only 11 feet to work with from the edge of the house to the property line in order to navigate traffic in and out to the back of the property. Mr. Still said they would like to utilize the property for a night-by-night lease to families that may come into town simply for no other use than for an

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overnight stay. It would not be manned by any employed staff. He added that it was currently being restored to earn its banner and shield from the Mobile Historic Development Commission.

Mr. Cummings noted that in the staff report it was stated that the gravel parking surface was recommended by the Mobile Historic Development Commission. He asked if this was recommended just in reference to the re-doing of the structure, and not necessarily for this particular use.

Mr. Still said that was correct, as well as to how it should appear aesthetically. Further, he said they were trying to adhere to the rest of the needs in reference to running this type of operation with a handicapped ramp in the back of the facility, and necessary parking spaces to accommodate the number of occupants. It would be at their discretion to accommodate their needs, as there would not be anyone manned or staffed at the facility.

Mr. Palombo asked Mr. Still if there would be an owner or homeowner there on the site 24 hours a day.

Mr. Still said there would not be anyone staffing the facility.

Asked if this was going to be multi-family, Mr. Still said it would be something in the neighborhood of a condo or an apartment. It would be an overnight lease like a motel.

Mr. Palombo stated that was totally different from what the applicant applied for, which was a bed and breakfast facility, not a multi-family residential unit.

Asked how long the renovation of the structure had been under way, Mr. Still said it was now in its third month.

Mr. Cummings asked that when the renovation began, was it always intended to complete the renovation in order to accommodate a bed and breakfast type use.

Mr. Still said absolutely.

Mr. Cummings said that Mr. Reilly knew at the time, however, that the property was zoned R-1 and it was not zoned for use as a bed and breakfast.

Mr. Still said that was correct, but considering this was the only single-family dwelling in the block, that everything around it was either multi-family or commercial use, they felt there might be some leniency there. Also, they felt the effort to restore the property with approval of the Mobile Historic Development Commission might be an advantage.

Mr. Cummings said that, technically, Mr. Still's statement was somewhat correct. On the surface it appeared that this was the only single-family house on the street; however, the properties up and down North Lafayette Street between Dauphin and Old Shell Road were zoned R-1. Technically, however, it was incorrect because the area was not zoned for business use. Mr. Cummings pointed out that the Theater Guild had been there for a long time, and the existing apartments probably pre-dated the Ordinance.

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Mr. Still further stated that the use of this facility would be very low-volume. Mr. Reilly wanted to restore the house and have it available for families coming into the City for weddings and funerals and keep it in that scale so that the integrity of the house as well as the environment around there would be maintained. Mr. Reilly also had plans that occasionally he would come into town and would have some place to stay in the event it was not being leased out or rented out at the time.

Mr. Cummings asked who would manage the facility.

Mr. Still said there would be a realtor managing in reference to disbursement of keys and taking in the fines.

Mr. Cummings asked if Mr. Reilly had had any communication with McGill-Toolen High School as to what their thoughts and feelings would be on the operation of this type of use across the street from their school.

Mr. Still said he did not think Mr. Reilly had had any contact with the school. He could bring it to Mr. Reilly's attention, or he could contact them himself, to see if this might impact them negatively. Mr. Still felt it would be relatively low-key and would not have any environmental or negative impact on the area any more than the existing apartments.

Ms. Pappas stated that based on the information provided by Mr. Still, this operation would be more of a rooming house rather than a bed and breakfast, and therefore the staff would request a holdover until the October meeting so that appropriate, more accurate, notice could be given to the property owners.

Ms. Pappas also said they were looking at the definition, and for the purposes of the Ordinance, it may have to be classified as a hotel.

Mr. Cochran asked if someone wanted to rent a room for a weekend, would they have to rent the whole house, or could they rent less than the whole house.

Mr. Still said they would have to rent the house. It would be just a one-time lease. Individuals could not come in and just lease one room.

Ms. Cochran said it was then just leasing a house.

Mr. Palombo said if he was just going to lease the whole house, that was a totally different thing. The staff was under the impression he was just going to rent one room.

Mr. Still said the applicant's effort was to accommodate families. If they occupied three, two, or one of the rooms, it did not matter.

Mr. Palombo said the staff would need additional information from Mr. Reilly, in writing, as to what he intended to do. If he intended to rent the house to a family, the Board would have no say so.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Guess to hold over this request for Use, Parking Surface and Substandard Access Variances to allow a bed and breakfast

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(four guest beds), gravel driveway and parking area, and an 11-foot wide driveway, in an R-1, Single-Family Residential District at the above referenced location, to allow the applicant an opportunity to submit a written, detailed, scope of operation to the Urban Development staff.

The motion carried unanimously.

**#5322**

**(Case #ZON2005-01656)**

**Image Mobile Hotel, Inc.**

**828 West I-65 Service Road South**

(Southwest corner of West I-65 Service Road South and Western America Drive)

**Height Variance to allow an average 58' tall hotel in a B-3, Community Business District; a maximum height of 45' is allowed in a B-3, Community Business District.**

Richard Benham, of Rester and Coleman Engineers, was present representing the applicant and presented this request which would allow the applicant to construct a 58' high hotel at this location. This would be a five-story building.

Mr. Cummings recalled that an application for a hotel in this vicinity had recently come before the Board.

Mr. Palombo said there was a request for a 48' height variance for a hotel at the southeasterly corner of the cul-de-sac, Western America Circle. The Board granted that variance.

Mr. Cummings also pointed out two other buildings on Western America Drive, the Executive Park, and asked how tall they were.

Ms. Pappas said they were 8-story buildings, however, they adjoined R-3 property, and there was an allowance for excess height when commercial property adjoined multi-family. The subject property was surrounded by B-3 and the Interstate, so that allowance did not come into play.

It was also pointed out that the Drury Inn was adjacent to the subject property, and next to that was the old Drayton Place.

Mr. Cummings noted that there was no one else present to speak either for or against this application.

Mr. Benham further stated that there would be 101 rooms total, which would be approximately 20 rooms per floor. The Ordinance requires 71 parking spaces, but they would have 100 spaces.

Mr. Davitt pointed out that the Ashbury Suites were a little further down and across the street, and had about six stories.

Mr. Palombo was not sure whether there were six floors in that building, or if there was some break.

Ms. Pappas noted that there was a section of the Ordinance that allowed for compensating height, bulk and open space. She said they broke out the scale and went through it line by line, but application did not fit. In the case of the Ashbury, you can have a higher building and then a

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lower portion, below the setback, you can have compensating open space. The proposed hotel does not have that because it was a rectangle and was all pretty much five stories high except for the little porte cochere.

Mr. Guess asked why the applicant wanted to have a five-story rather than a four-story hotel, other than additional rooms.

Mr. Benham explained that the Hilton Garden Inn prototype was a five-story building with 100 rooms. He said from his experience in the last four or five months, they had done several hotels and all of them had been about 100 rooms.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Lee to approve this request for a Height Variance to allow an average 58" tall hotel in a B-3, Community Business District at the above referenced location.

In further discussion it was asked what the requirements would be for trees and landscaping. Mr. Daughenbaugh said since it was a new commercial construction, full compliance with the Ordinance would be required.

There being no further discussion, Mr. Cummings called the question.

The motion carried unanimously.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED:** November 7, 2005

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Chairman of the Board

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