

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF APRIL 2, 2007 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

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

MEMBERS ABSENT

William Guess
Martha Collier
J. Tyler Turner

STAFF PRESENT

Frank Palombo, Planner II
Tony Felts, Planning Technician
David Daughenbaugh, Urban Forestry
Coordinator
Mae Sciple, Secretary II

OTHERS PRESENT

John Lawler, Assistant City Attorney
David Roberts, Traffic Engineering

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.

APPROVAL OF MINUTES:

A motion was made by Mr. Davitt and seconded by Mr. Davis to approve the minutes of the meetings of February 5, 2007, and March 5, 2007, as submitted. The motion carried unanimously.

HOLDOVERS:

#5408

(Case #ZON2007-00240)

Randy Hallford

1861 Duval Street

South side of Duval Street, 200'± East of the South terminus of Murray Hill Court (private street).

Use and Access/Maneuvering Variances to allow an appliance salvage yard in a B-3, Community Business District with head-in, back-out parking; the Zoning Ordinance requires a minimum of an I-1, Light industry District and all access/maneuvering must be on-site.

Mr. Cummings stated that this application was held over from the meeting of March 5, 2007, to allow the applicant an opportunity to address the issues of how they were going to dispose of the salvage, as well as the parking situation and the maneuvering of the trucks in and out of the site.

The problem was that the operation of the existing business was effectively turning the property into the storage of non-operable equipment (salvage yard), and the property was not zoned for that. At the last meeting Mrs. Hallford, representing her son, was asked about the possibility of immediately attempting to remove any salvageable parts and then storing them on the site, and then immediately disposing of the carcasses.

Howard Morton, 1861 Duval Street, stated that he had been negotiating, on behalf of Mrs. Hallford, the sale of the adjoining property to the west to be used for parking and maneuvering.

Mr. Cummings asked if the sale had been finalized.

Mr. Morton said the paperwork was in the process of being drawn up, but they did not yet have a contract on the property. Asked when the sale would actually be final, Mr. Morton said they had not set a date.

Mr. Cummings noted that if the applicant purchased the adjoining property referred to by Mr. Morton, he would have to do a one-lot subdivision. If that occurred, he asked where they would be in terms of the use.

Mr. Palombo said combining the two lots would satisfy the parking requirement, but the use would still be a B-3 use.

Mr. Cummings said that was the problem. The use requires a different type of zoning. As stated last month, Mr. Cummings said it was not the intent of the Board to put people out of business, but from the pictures submitted, the site looked like an appliance junk yard. Regardless of whether or not the applicant purchases the additional property, he asked what was going to make that condition change.

Mr. Coleman noted that in discussion of this request last month, one recommendation was that all of the work be done inside, and then the situation with the stored carcasses would go away. He asked Mr. Morton if he understood that.

Mr. Morton said he understood that there would be no storage of carcasses outside.

In further discussion Mr. Cummings noted that if the applicant buys the adjoining property, that would take some of the pressure off maneuvering onto and from the site, and it would take care of the parking requirement, but nonetheless there was still the use issue.

After discussion a motion was made by Mr. Coleman to approve this variance with the contingency that all salvage work be done indoors, and that no carcasses would be stored on-site outside.

Mr. Cummings asked if there was a second to the motion.

Mr. Davitt seconded the motion.

In further discussion Mr. Davis asked if he understood that the intent was, with the purchase of the additional property, to remove the scenario of an appliance junk yard.

Mr. Cummings said he understood that as the intent, which would require the salvage work to be done indoors, and to require that as soon as a piece of equipment is salvaged that its carcass be removed. He said it was difficult to imagine, however, how that was going to be done in an orderly fashion.

Mr. Palombo said it would behoove the applicant to contact the staff as to what would be required when he is making an addition, because he would be required full compliance with the Ordinance, including parking.

Mr. Davitt asked if the staff was going to be able to monitor the carcasses, or would that just be something they would respond to if a citizen complained.

Mr. Palombo said inspections would have to be scheduled weekly or monthly. It would be on-going. He said if the applicant would remove the carcasses and do additional work within the structure, this would not be a problem.

Mr. Coleman said Mr. Morton had just agreed to that.

There being no further business, Mr. Cummings called for the vote.

There were three votes in favor of the motion and one against. The motion failed to carry.

PUBLIC HEARINGS:

#5410

(Case #ZON2007-00648)

Thomas M. Kaoui

1250 Arlington Street

Northwest corner of Arlington Street and Bascombe Street.

Use Variance to allow an automotive mechanic shop in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of B-3, Community Business District.

Mr. Cummings stated that this request was recommended for approval subject to the recommendations of the staff regarding landscaping and tree planting, the reconfiguration of curb cuts to be coordinated with Traffic Engineering, the provision of a six-foot privacy fence along the north property line, and the limitation on the hours of operation, and stated in the staff report.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. Coleman and seconded by Mr. Davis to grant this request for a Use Variance to allow an automotive mechanic shop in an R-1, Single-Family Residential District at the above referenced location subject to the following conditions:

- (1) full compliance with the landscaping and tree planting requirements of the

Ordinance;

- (2) reconfiguration of curb cuts to be coordinated with Traffic Engineering;
- (3) the hours of operation be limited to 8:00 AM – 5:00 PM Monday through Saturday as stated in the application; and
- (4) the provision of a 6' wooden privacy fence along the north property line where the site adjoins residential use.

The motion carried unanimously.

#5411

(Case #ZON2007-00748)

Michelle Frazier Harris

3157 Orleans Street

South side of Orleans Street, 215'± East of Paris Avenue.

Use Variance to allow a home occupation beauty shop in a detached accessory structure on an adjacent parcel of property; the Zoning Ordinance requires a home occupation to be conducted within the business owner's primary dwelling.

Michelle Frazier Harris, applicant, was present in this matter. Ms. Harris said she was requesting a use variance so she could operate a beauty salon in an accessory building on this site. She said a vending machine repair operation was previously run out of this building. Ms. Harris said she already had a zoning and a business certificate for a home business for a beauty salon, but she was just moving it from inside her home to the accessory building. Her customers were family members and friends, so it would not be a large operation.

Mr. Cummings asked the staff how many employees and how many customers would be allowed in such an operation.

Mr. Palombo stated that Ms. Harris did receive a zoning clearance. It was issued on the premise that the beauty salon was in her home. The zoning inspector, building inspector, and plumbing inspector visited the site and found that the business was not occurring within the home, but in the accessory building, which was not even on the same lot, thus the variance request. Mr. Palombo said the lot on which the accessory building was located within an Alabama Power Company easement.

Ms. Harris said when she bought her property three years ago the deed stated that the property on which the accessory building was located was part of her property, and that building had been there for a long time.

Mr. Cummings said the building may have been there for a long time, but it was still on an easement owned by the Alabama Power Company.

David Frazier, 3708 Longridge Drive East, stated that Ms. Harris did not know that the accessory building was on the adjacent property until she was in the process of making an application that would allow her to operate the business at that location. At that time the staff noted that there was a problem and did pose the question of possibly moving the structure onto the property on which Ms. Harris' home was located. They suggested that if she filed a variance on the adjacent property she would be allowed to get her license that way.

Mr. Palombo stated that the staff never informed Ms. Harris that a variance would be approved. The staff first suggested that she move the structure onto her lot and apply for the variance.

Mr. Frazier corrected his statement. He said that when the survey verified that there was a problem because the structure was on the adjacent property, the staff suggested they would have to move the structure and then re-apply. After some research, they were told they could apply for the variance on the adjacent property with the accessory building as it was.

Mr. Cummings noted that the process allows one to apply for a variance, but it was not up to the staff to grant a variance. It was up to this Board. If the staff recommends denial, which they have done in this case, they are basing their recommendations on what the Ordinance says. So, many times, applicants may hear something different than what was actually said.

Mr. Frazier said he was not trying to say anything against what was said, but when working with his sister on this, he was under the impression that the staff strongly suggested that a variance was a possibility. Mr. Frazier said they wanted to do whatever was needed to be in compliance, and not just file and come down and go through the motions.

Mr. Cummings asked if the building in question was on a slab or on piers.

Mr. Frazier said the building was on piers.

Mr. Cummings asked about utility service to the building, and whether it had a bathroom.

Mr. Frazier said that currently they had power and sewer connections. The previous owner had the power installed. At that time he was using it for the repair of vending machines. The building was originally constructed in the middle of the lot, but the previous owner was required to move it over closer to the line where it was now.

Mr. Cummings asked the staff if, for instance, the building were moved to the southwest portion of parcel A, would a variance again be required, because this was technically in a building and not in the home, but still on a parcel.

Mr. Palombo said a variance would still be required.

Mr. Cummings asked the approximate size of the building.

Mr. Frazier said the building was approximately 30' x 15', because the bathroom was legal for handicapped.

Mr. Cummings noted that he received a letter from Councilman Richardson expressing his support for this application. He asked if there was anyone present who wished to speak in opposition.

Mr. Palombo stated that the staff had received 41 calls in opposition, the names and addresses of which were submitted to the Board.

Wendy Crocker stated that she was a resident of 116 Paris Avenue, which was two houses down from the subject property. She noted that the proposed business was in the heart of a residential neighborhood. The building faced the main street where children played and rode their bikes. Ms. Crocker said she had lived at this location for two years and had put a lot of blood, sweat, and tears into re-doing her house, and she could see this kind of trickling down through others in the neighborhood. She was opposed to the use of this property for a commercial use.

Mr. Cummings pointed out that *if* the requested variance were granted, it would be specific to this particular use. It would not change the zoning of the property.

Ms. Crocker also submitted pictures of the houses in this neighborhood, as well as a petition in opposition, in addition to the 41 names in opposition received by the staff. Ms. Crocker asked that the Board members vote as if this were in their own neighborhood.

Joey Knowles, a resident of 106 Paris Avenue, stated that he was a lifelong resident of this neighborhood. He was 57 years old, and was born in the house across the street from the proposed beauty shop. Mr. Knowles said his mother and his brother still lived there, and he had lived in that residence for 21 years. He has lived right around the corner at 106 Paris Avenue for the remainder.

Mr. Cummings asked Mr. Knowles about his knowledge regarding the vending repair business that occurred there for some period of time.

Mr. Knowles said the former resident operated a vending machine business out of the subject building. He had to move it from the center of the property to where it was now located. Mr. Knowles said it was not a repair business. The former owner bought cases of coca-cola, sprite and such and stored this merchandise in this building until he was ready to load it into vending machines at various locations. When he moved approximately three years ago, the HARRISES bought the property. Mr. Knowles said he felt this was his neighborhood because he had lived here all his life. He submitted a petition in opposition signed just by the residents of their circle, which was the back section of Dauphin Acres where the HARRISES proposed to operate this business, and not one person that he talked to personally was in agreement with this proposal.

There being no one else who wished to speak, Mr. Cummings asked if anyone on the Board had any questions.

Mr. Coleman asked Mr. Knowles if he recalled whether or not, at the time the previous owner constructed the subject building, there was a petition going around to deny him access to it.

Mr. Knowles said no, because it was not going to be a "business". It was just a storage shed for products that he was putting in vending machines. There was not going to be anything that would cause an increase in traffic or anything like that.

For clarification, Mr. Cummings asked Mr. Knowles if he recalled how long ago the prior owner ceased to operate his business from the subject building.

Mr. Knowles said it had been 8-10 years.

There being no further questions from the Board, Mr. Cummings asked the applicant if she had any further comments or would like to rebut any of the comments that had been made.

Ms. Harris said the neighbors seemed to be under the impression that the proposed use would change the neighborhood. She said she had asked the neighbors directly across the street from her, the neighbors to the left and to the right of her, and she had their signatures stating that this would not be a problem. She said Mr. Knowles' brother agreed to do the plumbing if they needed to install a water fountain. Ms. Harris said they were a close-knit neighborhood where people talked to one another and looked out for one another, and she was not aware of any problems with this proposed use. Regarding parking, she said she had a parking lot – the driveway – and had plenty of parking space and had no reason to stop traffic. She did not plan to erect a sign, and would only have a few customers at a time. Ms. Harris said she was getting old and had arthritis and her doctor told her she had to slow down, so she just wanted to put the beauty shop right there next to her home. She loved the neighborhood and had no intention of changing it.

Mr. Frazier further stated that the proposed use would not create a lot of traffic, as there would only be two or three cars there at one time. They just wanted to put the shop right next to her home so she would not have far to go.

Ms. Harris further stated that she was under the impression this would not be a problem, since there were other businesses – a barber shop and a mechanic's shop – already in the neighborhood.

Mr. Cummings asked Ms. Harris where customers coming to her shop would park.

Ms. Harris said she had a large driveway that would hold six cars. In addition, she had the parking space right in front of the shop if they needed more. She said she had even submitted a plan in case they needed to add two more parking spaces.

Mr. Cummings asked the staff what the limitation was in terms of operators and/or customers for a home occupation allowed salon.

Mr. Palombo stated that for a barber shop or beauty salon, one chair and one customer at a time would be allowed.

Ms. Harris said she would have one chair, one station, and one shampoo bowl, which she submitted pictures of.

Since she intended to have just one chair and one customer at a time, Mr. Cummings asked Ms. Harris if there was any way she could operate the salon inside her home as opposed to the accessory building.

Ms. Harris said to operate the salon from her home would require that she tear up the bathroom. She would have to do plumbing for the shampoo bowl and would have to change the bathroom to accommodate the handicapped, and have a water fountain installed.

Mr. Cummings asked if the existing building with the fully functioning bathroom had a handicapped ramp already in place.

Ms. Harris said it did have a handicapped ramp, and the bathroom was larger than any shop bathroom she had ever seen.

Mr. Cummings asked if the staff had a record of the business licensing that applied to the vending operations some 8-10 years ago.

Mr. Palombo said no, there was no record of a business license for that use. He said he assumed that Building Inspections issued that building permit thinking that it was on that property with the home as an accessory structure.

Mr. Cummings asked if there was a separate power meter on the building.

Ms. Harris said it all goes with the home. There was one power meter, gas, everything. It was with the home, so she thought of it as a home business.

Regarding Mr. Knowles' statement that the prior owner simply stored his products in the accessory building, Mr. Davitt asked if that would constitute a home occupation, and would he have been required to get a business license.

Mr. Lawler said that a home occupation is operated from the home, and the structure in question was not a home.

Mr. Palombo further noted that the prior owner would have been required to get a business license if he had a tax number that stated that was his home operation. There was a building permit on record for the structure that was issued in 1996.

Mr. Davis asked if he understood correctly that there were similar small businesses in the neighborhood.

Mr. Frazier said there was a barber shop two doors from his house, and then around the corner there was a mechanic's shop.

Mr. Palombo said there was no record of either business anywhere in that subdivision.

Mr. Cummings asked if anyone else wished to speak in opposition.

Mr. Knowles said he would like to reiterate that this was a residential neighborhood, and had been for the 57 years he had lived there. Regarding Ms. Harris' comment that his brother said he would do the plumbing work for her, he said that did not mean he agreed with operating a beauty shop at that location. He noted that his brother owned the property at 3150 Orleans and had signed the petition in opposition.

Before going into deliberations session, Mr. Cummings pointed out the fact that the subject building was located within a power line easement, and it was illegal to occupy a structure, either as a home or as a business, within a Power Company easement. A person could not pull a permit

for a building to be constructed in a Power Company easement. Regardless of whether the Board felt it was a good thing or not in terms of hardship for the actual property, technically it was not allowed anyway. Mr. Cummings asked Mr. Lawler if he was correct.

Mr. Lawler said they did not know what the Power Company had agreed to or not agreed to with regard to the subject structure, but certainly there was not anything this Board could do that would give them the right to continue to allow the structure there. The Power Company could decide at any moment that they wanted the structure removed, and he assumed they could do that. The fact was that you could not build anything in a Power Company easement. He said it may be that they are waiting until such time as they need it, and then at that time they would require that the building be removed.

There being no further discussion, the Board went into deliberations session.

Mr. Cumming stated that if a business had operated in the subject structure, apparently it had not operated there for many years because the non-conforming use had long since expired.

Mr. Palombo said that it never had a non-conforming use because it was illegal in the first place.

Mr. Cummings agreed. He said he was stretching it a bit, saying *if* it was a non-conforming use was in fact implied, then it had long since expired. The question was, was there a business there before? The point was, if a business operates, even if it did under a variance, which it did not, but it ceased to do so for a period of two years or more, it was as if it never happened in terms of where we go from here. Mr. Cummings said he could not speak for the Power Company, but he could not imagine that they would allow the construction of a new building, or the location of a building underneath the easement.

Mr. Coleman asked the staff what it would take for the applicant to be able to continue her business from this structure.

Mr. Palombo said there was no business. The applicant had a zoning clearance for a beauty shop in the home. It never occurred in the home. She was operating in the separate structure on a separate parcel. She was issued a Notice of Violation to stop doing the work. The building, plumbing, and electrical inspectors all inspected the site. The sewer was going on the ground. He did not know about the bathroom. The electrical was just a wire strung from the house to this structure. There were many, many violations. Mr. Palombo said that if it was one legal lot of record, they would permit that structure on any piece of that property. Now, when they use it for a business, that is a zoning infraction.

Mr. Cummings also pointed out that if this variance were approved, because this building sits on a separate lot of record, that lot would have to be brought into compliance with the zoning classification required for that type of use. It would no longer be a home-based business. It would have to comply with the landscaping and parking requirements of the Ordinance, and would have to be brought into full compliance with all city codes, including plumbing, electrical, etc. Currently the electricity is being supplied via one wire that runs off of a meter attached to a separate lot of record. Mr. Cummings said there would have to be a lot done if this variance were granted, and he felt it may be a bit more than the applicant may want to bite off.

Mr. Coleman asked if the application could be held over to give the applicant an opportunity to meet with the staff, and the staff could make recommendations on what would be required to accommodate them.

Mr. Palombo asked Mr. Coleman if he was looking at basically approving a home-based business in another structure.

Mr. Davis felt Mr. Coleman was asking if the applicant could sit down with the staff to see what would be accommodating on both sides.

Mr. Palombo said he could suggest that the applicant put the business in her home, and not use the accessory structure as a business.

Mr. Cummings commented that it was not this Board's intent to put people out of business or place hardships on the operation of a business, and that over the years the Board had tried to favor business in a fair way. Personally, Mr. Cummings said he did not see the hardship for this because it was a separate building on a separate lot of record, in a power easement, with power that was supplied by one wire running from a meter that is attached to another building on another lot of record. He saw all kinds of difficulties with it, and he would be hard-pressed to vote in favor of a variance.

Mr. Palombo said if the Board wished to come up with some happy medium, they could put conditions on it that it would have to comply with the building, plumbing, electrical and all other codes.

Mr. Coleman asked about the possibility of doing a subdivision and adjoining the two separate parcels of property.

Mr. Palombo said that would not accomplish anything because they would still have a business in a separate structure.

Mr. Cummings said he suggested earlier that they pick up the structure and move it to the east and put it on parcel A, but that would not solve anything because they were not operating the business out of the home itself under a home occupation license. That was the problem.

Mr. Coleman asked if they could attach the accessory structure to the home with a covered walkway.

Mr. Lawler noted that it was a B-2 use, and it was a use variance.

Mr. Palombo said that attaching the structure to the home was suggested to the applicant. It would be considered living space. Twenty-five percent of the whole living space could be used as a home occupation.

Mr. Cummings said that the applicant had every right to request a holdover. He noted, however, that doing a one-lot subdivision, as well as building a structure to connect the building to the home, in compliance with all city codes, would be a considerable expense.

Mr. Palombo noted that if the applicant wished to connect the two structures, then the subdivision would not be required. Subdivision in R-1 is not required if a structure is connected over the interior property line.

Mr. Cumming said that would eliminate one step, but it would still be an expensive enterprise, and the applicant would still be restricted to the operation of one chair with one customer.

After discussion a motion was made by Mr. Coleman and seconded by Mr. Davis to holdover for 30 days this request for a Use Variance to allow a home occupation beauty shop in a detached accessory structure on an adjacent parcel of property at the above referenced location to allow the applicant time to revise the site plan.

The motion carried unanimously.

#5412

(Case #ZON2007-00760)

Helean I Shatto

312 North Conception Street

East side of North Conception Street, 65'± South of Adams Street.

Use, Setback, and Parking Variances to allow a home occupation for courtyard weddings/receptions, a 16.7' x 19.0' storage cottage setback 0.1' off a rear property line and 0.25' off a side property line, and on-street parking in an R-B, Residential-Business District; a home occupation for courtyard weddings/receptions is not allowed, the Zoning Ordinance requires a zero or 5'+ rear and side yard setback, and on-site parking is required in an R-B, Residential-Business District.

Helean Shatto, applicant, was present in this matter.

Mr. Cummings asked if Mrs. Shatto understood that the expansion of the use was the big issue here.

Mrs. Shatto explained that she added a little building on the back of the property for storage, and possibly for use as a changing room. When she applied for the business license she then ran into a problem of whether the business was allowed. She said when she was issued the license there was a lot of discussion because it was already mixed use.

The staff report indicated that in March 2005, the applicant applied for a business license for courtyard weddings/receptions as a regular business operation, not as a home occupation business, and the associated Zoning Certification was denied because such activity requires Planning Commission approval in an R-B district. However, the City Revenue Department erroneously issued a business license. In September 2006, a Building Inspections investigation found construction work being conducted without permits for the 16' x 19' detached storage cottage, and an associated zoning investigation discovered property line setbacks not met on the structure. The applicant was given ten days to comply with the setbacks. A building permit was obtained for the structure with approved setbacks of 5' on the rear and zero on the side property lines. The applicant failed to relocate the structure within the given ten days to meet the approved setbacks, and a citation was issued. In March 2007, the applicant was discovered to be

conducting a home occupation for courtyard weddings/receptions without a variance and was given ten days to comply, hence this application.

Mrs. Shatto said she did not understand, because she applied, paid for, and was issued the license.

Mr. Palombo said the license was temporary, until she had zoning approval.

Mrs. Shatto said she did not realize she had to do anything else. She obtained a permit for the building, but the roof overhang was such that it sits on the zero lot line. She did not think they could build it and put the overhang on someone else's property. The Zoning Department told her that the wall, not the overhang, had to be set on the zero lot line, and that she would need to request a variance.

Mr. Cummings noted that this site was in the DeTonti Square Historic District, and asked if it should not have gone before the Architectural Review Board.

Mr. Palombo said the Detonti Square ARB had approved the design. They do not look at the setbacks. He said the staff tried to determine if there were other structures within this district that were 15 or 16 inches from the line, but could not find any.

Mrs. Shatto said the ARB approved the setback on the rear property line. She also said that Gary Lee, the adjoining property owner, evidently had gotten a variance when he bought his property because his eaves were on her property line.

Mr. Cummings asked if he understood that the existing building was on the DeTonti subdivision zero line.

Mr. Palombo said that was correct. There was no happy medium. The Ordinance required it be either zero or five feet.

Mr. Cummings noted that on the survey done by Polysurveying in February of last year, the additional structure was labeled as a guest house.

Mrs. Shatto said it was actually a storage building.

Mr. Cummings asked if there was plumbing and kitchen facilities in the building, and whether it was heated and cooled.

Mrs. Shatto said there was no plumbing and it was not heated and cooled. It would have electricity, but it was just a storage building. The building was almost complete.

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

No one came forward.

Referring to pictures of the structure, Mr. Cummings said he understood they were effectively either lining up right with their neighbor's overhang, or maybe just underneath it.

Mrs. Shatto said they were right with the overhang.

Mr. Cummings asked Mr. Palombo how close the adjoining structure was to the south line of this new building.

Mr. Palombo said he thought it was right next to it.

Mrs. Shatto said it was along the wall of the fence.

Mr. Cummings noted that this building was begun initially without a permit, and then construction was discovered, construction was stopped, and the permit was issued. He asked how a permit was finally resolved to allow this building to be so close to that other building that was already there.

Mr. Palombo said that for an accessory structure, a site plan is not required. It is a note on the building application, and he asked the owners to make sure it was either going to be *on* the property line, or *five feet from it*.

Mrs. Shatto said they considered the zero lot line to be counting the roof overhang, and just recently found out that they go by the wall, not the overhang of the roof.

Mr. Cummings commented that in most zero lot line subdivisions, you can build on your zero line and the guy next to you can build on his. There is generally, depending on where the Planning Commission approves it, anywhere from 5, to 8, to ten feet between zero lot lines on a lot next door to you and where your structure is allowed on your non-zero lot line. This structure was .25 feet off their side line. He said if they flipped this building and their deck, there would not be a problem. Mr. Cummings asked if fire safety had looked at this.

Mr. Palombo said no.

Mrs. Shatto said part of the problem was that their neighbor built his house on the zero lot line, and his overhang was actually on their property. She said there was a variance allowance in the deed that made the statement that his overhang was actually on her property.

Mr. Palombo said that was allowed in zero setback cases.

Mr. Cummings said the difficulty was that Mrs. Shatto put her building so close to her neighbor's zero lot line that she created somewhat of a fire hazard. He asked how long this structure had been there.

Mrs. Shatto said her house was built in 1852. She did not know when her neighbor's house was built, but it was also a historic home.

Mr. Cummings said the storage building was just recently built, but the neighbor's house had been there 100+ years.

Mr. Palombo suggested the possibility of shifting the building.

Mrs. Shatto said there was a deck on the right between her neighbor's property and that storage building. Basically, there was a deck on three sides. She thought if the deck was allowed, that that would qualify.

Regarding the home occupation, Mr. Cummings asked what was the capacity allowed under the type of license that could be granted for this zoning.

Mr. Palombo said he did not know because it was rejected.

Mr. Cummings said he understood that they were not asking for a home occupation anymore, but were asking for just a straight out use. He asked what size party would they anticipate, maximum.

Mrs. Shatto said they were anticipating 10 or less people.

Mr. Cummings asked where the 10 or less guests, as well as the staff, would park.

Cathy Mitchell stated that they provided a courtyard for the ceremony, and they did not have any other staff.

Mr. Coleman asked where the reception would be held.

Mrs. Shatto said it would be held in the courtyard also.

Mr. Palombo asked what the structure was going to be used for.

Mrs. Mitchell said it was just for storage of chairs and such. Mrs. Shatto added that they were also thinking possibly of using it for a changing room.

Mr. Cummings asked if the two concrete pads on the front of the property, fronting Conception Street, were for parking.

Mrs. Shatto said yes.

Mr. Commings asked if Mrs. Shatto lived in the house, or was it otherwise used.

Mrs. Shatto said she lived in the house.

Mr. Cummings asked where Mrs. Shatto parked.

Mrs. Shatto said she parked on those two parking places on the street, like everybody else.

Mr. Cummings read the following statement from the staff report regarding the on-street parking request: "Parking requirements within the Hank Aaron Loop are reduced, and wedding/receptions require one space per 300 square feet of gross floor area for indoor activities. If using that same formula for the 82' x 17.5' courtyard area, five on-site compliant parking spaces would be required. Traffic Engineering has conducted an on-site review and determined

that weddings/receptions would further limit access for vehicular passage and entail problems for emergency vehicles attempting to enter the area while an event is in progress.” Mr. Cummings said he understood that a couple comes in for an hour, gets married, and goes on a cruise. But in that hour, there could be a fire in somebody else’s house.

Mrs. Shatto contended that if her guests parked their cars in the two parking spots in front of her house, they were not really in the street to interfere with anything.

Mr. Cummings said that was correct, but her car would be in the street. She would have to move it to accommodate her guests, as previously stated.

Mrs. Shatto asked if she was not allowed to park in the street like every other resident.

Mr. Cummings said yes, she could park on the street, but she was still three parking spaces short. She had two spaces on-site, but was required by the Ordinance to have five on-site spaces.

Mrs. Mitchell pointed out that Mrs. Shatto had additional space on the side that was currently landscaped that could be used for parking.

Mr. Cummings said the entire 40-foot lot was not one entire curb cut to Conception Street.

Mrs. Mitchell said there was no curb there. It was all driveway. She said there was a curb on Conception Street, but it was not in front of Mrs. Shatto’s house. Mr. Lee, her neighbor, had a curb in front of his house.

Mr. Palombo asked Mr. Roberts if he had been to the site.

David Roberts, representing Traffic Engineering, said he had visited the site. All he saw were the two parking spaces in the front.

Mr. Cummings asked if there was anyone who wished to speak either in favor or in opposition to this request.

No one responded.

In further discussion Mr. Davitt commented that the Board struggled with a previous variance request for the use of a house for wedding receptions on Government near Georgia Avenue, and parking was an issue there, and that request was denied. He saw parking as an issue with this request also, even if it was five spaces. Everyone would want to take their own car, and maybe the ceremony would be an hour, or two hours, or just 30 minutes. There was still a problem with the structure. There was no fire-rated wall, and the overhang was a problem.

After discussion a motion was made by Mr. Davitt and seconded by Mr. Davis to deny this request for Use, Setback, and Parking Variances to allow a Home Occupation for courtyard weddings/receptions, a 16.7’ x 19.0’ Storage Cottage Setback 0.1’ off a rear property line and 0.25’ off a side property line, and On-Street Parking in an R-B, Residential-Business District at the above referenced location.

The motion carried unanimously.

#5413

(Case #ZON2007-00815)

Bruce H. Britt

North side of Halls Mill Road, 620'± West of Victory Drive.

Use and Access/Maneuvering Area Variances to allow cement garden ornaments manufacturing in a B-3, Community Business District, with 20'-wide vehicle access/maneuvering area; the Zoning Ordinance requires a minimum I-2, Heavy Industry District for concrete products manufacture, and 24'-wide vehicle access/maneuvering area.

Jerry Byrd, Byrd Surveying Company, was present on behalf of the applicant.

Mr. Cummings noted that the request was recommended for approval, and asked Mr. Byrd if he had seen the recommendation.

Mr. Byrd said he had seen the recommendation and discussed it with Mr. Britt, who was the owner, and they were in agreement with the recommendation.

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

There was no one.

After discussion a motion was made by Mr. Coleman and seconded by Mr. Davitt to approve this request for Use and Access/Maneuvering Area Variances to allow cement garden ornaments manufacturing in a B-3, Community Business District, with 20'-wide vehicle access/maneuvering area at the above referenced location subject to the following conditions:

- (1) the provision of frontage landscaping and tree plantings to be coordinated with Urban Forestry;
- (2) the reconfiguration of the two rear parking stalls to comply with all requirements of the Zoning Ordinance; and
- (3) the provision of a 6' wooden privacy fence around the rear casting and storage yard.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Cummings commented that home occupation licenses were creating more and more difficulties. The point was made that an applicant was not even required to have a survey to show the location of their building before being issued a home occupation license. It was suggested that the Zoning Ordinance may need to be reviewed and updated. Mr. Palombo commented that the Zoning Ordinance, as well as the Subdivision Regulations, were in dire need of updating.

Mr. Cummings also commented that he attended a meeting this past week regarding a new program instituted by Mayor Jones called City Smarts. It is a program that holds city government accountable. It was stated at this meeting that Urban Development was short four key positions, and has been short these four key positions from anywhere from one to two years, and they were powerless to do anything about it because these positions require applicants funneled to them by the Mobile County Personnel Board. Mr. Cummings said it was stunning for him to see that they have a need for these positions, because the money is allocated and budgeted to pay people for these positions, but the Personnel Board either cannot find suitable applicants or does not like the ones they are getting. He recalled that at the request of the staff, the Mayor was sending out letters to colleges and universities in an attempt to recruit persons for planning and permitting positions with Urban Development. But he said you can't wait until a person has his degree in hand because if he's looking for a job in September for when he gets out in May, come May, if somebody else has made him an offer, he's gone. He felt that process ought to be looked at.

Mr. Palombo said the department frequently gets calls from students inquiring about Planner positions, but because they have not yet graduated, they cannot apply. The Personnel Board will not accept their application until they have gotten their degree.

In defense of the Personnel Board, Mr. Coleman said he spent 20 years with the Personnel Board, but the Personnel Board, in and of itself, was not the problem. The problem was the supervisory committee. He said that had been nothing but a rubber stamp for years. There were people serving on that board who did not know anything about personnel administration. There was no one currently on the Board that had a background in labor law or human resources management. He said they come in off the street and were making personnel decisions without being adequately informed. Mr. Coleman said that until the people say to take it out of an appointment and make it be by election and put people in there that know what they are doing, the Personnel Board will not function the way it was designed to function.

Mr. Cummings felt Mr. Coleman made a great point, and he agreed with him. He noted that at the City Smarts meeting, when the time came for questions, he commented to the Mayor that he thought holding the City accountable was great, but he asked him who was holding the Personnel Board accountable. Mr. Cummings felt a change was needed.

Mr. Palombo also commented that the Mayor had sent out 43 letters to universities in Louisiana, Arkansas, Tennessee, Mississippi, Alabama and Florida trying to get students to apply for positions with the City of Mobile. He said the Planning section of Urban Development was fortunate enough to have been able to hire Tony Felts, who will be graduating from South Alabama in May, for a Planning Technician position. But the Personnel Board will not accept applications for Planner I and Planner II positions unless a person has a degree.

Mr. Coleman commented that they can't hire experienced people, because the Personnel Board makes them come in at the beginning salary. Mr. Palombo said that was another problem the Department had. Regardless of a person's experience, they have to start at the bottom.

There being no further business, the meeting was adjourned.

APPROVED: May 7, 2007

Board of Zoning Adjustment
April 2, 2007

Reid Cummings, Chairman

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