

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF JANUARY 7, 2013 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, AUDITORIUM

MEMBERS PRESENT

William Guess, Chairman
Vernon Coleman, Chairman
Sanford Davis
Adam Metcalfe
Jeremy Milling
Russell Reilly*
*supernumerary member

MEMBERS ABSENT

J. Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Bert Hoffman, Planner II
Tchernavia Yow, Secretary I

OTHERS PRESENT

John Lawler, City Attorney
George Davis, City Engineering
Butch Ladner, Traffic Engineering
DC Billy Roach, Fire & Rescue

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

ROLL CALL

✓	William Guess, Chairman
✓	Vernon Coleman, Vice-Chairman
✓	Sanford Davis
✓	Adam Metcalfe
✓	Jeremy B. Milling
✓	Russell Reilly
✗	J. Tyler Turner

CALL TO ORDER:

Chairman Guess advised all in attendance as to the policies and procedures of the Board of Zoning Adjustment. He noted the numbers of members present constituted a quorum. He advised that if there was any recusal from a particular application, the supernumerary will be allowed vote in his absence. He called the meeting to order.

HOLDOVERS:

#5800

(Case #ZON2012-02829)

Hughes Plumbing and Utility Contractors

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400 Bay Bridge Road
(Northwest corner of Bay Bridge Road and Paper Mill Road, extending to Paper Mill Road Extension).

Use Variance to allow a contractor's storage yard in an R-2, Two-Family Residential District and B-2, Neighborhood Business District with a 6' high chain link fence; the Zoning Ordinance requires a minimum of an I-1, Light Industrial District for a contractor's storage yard and is required to be enclosed by a solid wall or fence at least 8' high.

Council District 2

The Chair announced the matter, advising that the applicant had withdrawn the application.

**#5788/5587/5410
(Case #ZON2012-02236)**

Jerry Pettaway
1250 Arlington Street

(Northwest corner of Arlington Street and Bascomb Street).

Use, Setback, Parking Ratio, Maneuvering, and Tree Planting and Landscaping Area Variances to amend a previously approved Use, Maneuvering, Tree Planting and Landscaping Area Variance to allow a tire store with a 4' rear setback off residentially zoned property, 7 parking spaces with 20' maneuvering area, and no tree plantings or landscaping in an R-1, Single-Family Residential District; the Zoning Ordinance, at applicant's request, to the January 7, 2013 meeting requires a minimum of B-2, Neighborhood Business District, for a tire store, with a 10' rear setback off residentially zoned property, with 12 parking spaces having a 24' maneuvering area, 12% of the site being landscaped with 60% of that along street frontages, six frontage trees, eight perimeter trees, and one parking area tree.

Council District 3

The Chair announced the matter, advising it had been recommended for denial of the Setback and Parking variances while the Use, Tree Planting & Landscaping, and Maneuvering variances are recommended for approval. The applicant was not present to address the Board regarding the subject at that time.

Mr. Palombo stated that this was the third time this case was on the agenda.

Mr. Hoffman stated that a representative from Polysurveying appeared at the hearing the last time it was on the agenda and stated that he had been unable to get in touch with the applicant to come in.

The Chair stated that he thought that the applicant had been given ample time to address any questions, and he opened the floor for a motion.

A motion was made by Mr. Coleman, with second by Mr. Metcalfe, to deny the above referenced request.

The motion carried unanimously.

#5795/5430/4765/4557/4493/4402

(Case #ZON2012-02663)

Florida Certified Sign Erectors

63 South Royal Street

(East side of South Royal Street at the East terminus of Conti Street).

Sign Variance to allow a total of four wall signs (242.77 square feet) for a one tenant business on a multi-tenant site; the Zoning Ordinance allows only one wall sign per business on a multi-tenant site.

Council District 2

The Chair announced the matter, advising it had been recommended for approval. He advised the applicant should address the Board regarding the subject at that time.

Jim Patterson, Florida Certified Sign Erectors, 2824 Horace Shepard Drive, Dothan, AL, spoke on behalf of the applicant and made the following points in support of the application:

- PNC Bank asked him to explore the options of two high-rise illuminated signs – one on the east elevation of their building on Royal Street and one on the east elevation of Conti Street;
- These elevations both have an excellent line of sight from both the east and west on I-10;
- They will highlight the Mobile skyline along with other highrise building signs in the area; and,
- At the December meeting, they were asked to do away with the two existing signs, and they couldn't agree to that as those signs are their street identification.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Metcalfe, to approve the above referenced request, subject to the following condition:

- 1) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously

EXTENSIONS:

#5718

(Case #ZON2011-02557)

Joe Mason

1412 & 1416 Wolf Ridge Road

(East side of Wolf Ridge Road, 200'± North of Moffett Road).

Front Landscaping Variance to allow 2,435 square feet of front landscaping areas on a 94,510 square foot lot; the Zoning Ordinance requires 6,804 square feet of front landscaping area for a lot 94, 510 square feet in B-3, Community Business District.

Council District 1

The Chair announced the matter, advising it had been recommended for denial. He advised the applicant should address the Board regarding the subject at that time.

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Frank Dagley, 717 Executive Park Drive, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the matter:

- Mr. Mason is retiring from a local plant and wants to supplement his income by opening a car lot;
- He bought this property about three years ago;
- They have subdivided, rezoned, and applied for variances;
- He understands that the applicant may have done some things on the site he shouldn't have;
- The applicant was supposed to be present to help defend his application. Since he did not appear, Mr. Dagley requested a holdover until the following meeting to prepare.

Mr. Palombo stated that he thought that Mr. Mason applied for a permit to renovate a building that is not in compliance with the plan for the subdivision or rezoning so that is the reason for the issue.

Mr. Guess advised Mr. Dagley that Traffic Engineering did have some comments regarding this application, so he would want to consult with them.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Milling, to holdover the above referenced request until the February meeting.

The motion carried unanimously

PUBLIC HEARINGS:

#5807

(Case #ZON2012-03036)

Capital Volvo Trucks

3801 Moffett Road

(West side of Moffett Road at the East terminus of Stimpson Lane).

Surfacing Variance to allow a parking lot partially surfaced with aggregate in a B-2, Neighborhood Business District, and B-3, Community Business District; the Zoning Ordinance requires that all surfaces be paved with asphalt, concrete, or an approved alternative surfacing in a B-2, Neighborhood Business District and B-3, Community Business District.

Council District 7

The Chair announced the matter, advising it had been recommended for denial. He advised that Mr. Metcalfe would recuse himself from the case, so Mr. Reilly would vote on this case. He advised the applicant should address the Board regarding the subject at that time.

Jerry Byrd, Byrd Surveying Company, 2609 Halls Mill Road, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the matter:

- The applicant, Mr. Greg Maxwell, owns Capital Volvo and sells new 18-wheeler trucks, not the trailers;

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- The business is already located in the building;
- They don't sell very often – many times, the trucks sit on the lot three to six months;
- He has been parking the trucks on the grass inside a fenced area that is about 50 feet from the curblin off Moffett Road;
- Mr. Maxwell has been cited by the City for this;
- He proposes to pave with asphalt an area about 40' by 105' so that the trucks can be pulled in on it as the trucks are about 40' long;
- They are asking not to be required to pave a driveway that would turn and lead to the paved area;
- The existing drive is paved with asphalt;
- The staff report showed that they were looking to put aggregate and not to have to pave the whole parking lot – they are not asking for aggregate, but they are asking not to have to pave the entire area;
- Mr. Maxwell is leasing the building, and the owner isn't willing to pave for him; and
- They are trying to meet the City code to park the trucks on asphalt.

The Chair asked the applicant if he had anything to add.

Mr. Maxwell stated that the trucks are showcased there; they aren't pulled in and out. It's not like a car lot. Big trucks are just there for customers to see. If they cannot park them on the road and have to pull them behind the building, it hinders their visibility.

Mr. Guess stated that if the applicant is willing to pave the area, he didn't understand the purpose of the variance application.

Mr. Palombo stated that the staff does not give partial compliance. The staff looks at the ordinance and it states that the drive, access, and showcase parking area must be asphalt. The decision would be left up to the Board.

Hearing no opposition or further discussion, a motion was made by Mr. Coleman, with second by Mr. Davis, to approve the above referenced request, subject to the following condition:

- 1) that there be no more than 10 vehicles stored at one time;**
- 2) that the applicant provide asphalt surface as per illustrated on the site plan; and**
- 3) full compliance with all other codes and ordinances.**

The motion carried unanimously

#5808/5504/5455/4686/4646

(Case #ZON2012-03037)

James McAleer

3305 Springhill Avenue

(East side of Ingate Street, extending from Spring Hill Avenue to Old Carline Street).

Parking Ratio Variance to allow 32 parking spaces for an 18,084 square-foot retail showroom and 6-employee warehouse and increased site coverage to 64% in an B-3, Community Business District; the Zoning Ordinance requires one parking space per 300 square feet for an 18.084 square-foot showroom (61 parking spaces) and one parking space

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per three warehouse employees (2 parking spaces), for a total of 63 required parking spaces and site coverage up to 50% in an B-3, Community Business District.

Council District 1

The Chair announced the matter, advising it had been recommended for approval. He advised the applicant should address the Board regarding the subject at that time.

Frank Dagley, 717 Executive Park Drive, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the matter:

- They are in agreement with the staff recommendations;
- This variance was approved several years ago, but they didn't move forward after the economic downturn.

Hearing no opposition or further discussion, a motion was made by Mr. Milling, with second by Mr. Coleman, to approve the **Parking Ratio Variance to allow 32 parking spaces for an 18,084 square-foot retail showroom and 6-employee warehouse and increased site coverage variance request to allow 64.9% in a B-3, Community Business District, subject to the following conditions:**

- 1) **revision of the lot area information and associated calculations on the site plan to reflect the lot size on the recorded plat: 68,536 square feet;**
- 2) **revision, at the applicant's discretion, of the existing parking area to shift some parking to an expanded new parking area, and replacement of the shifted existing parking spaces with landscaping and directional arrows to create a one-way circulation in the existing parking area;**
- 3) **compliance with the tree and landscaping requirements to be coordinated with Urban Forestry; and,**
- 4) **full compliance with all municipal codes and ordinances for the new construction.**

The motion carried unanimously

#5809

(Case #ZON2012-03039)

R. Michael and C. Brooke Lenz

East terminus of Rochester Place

Front Yard Setback Variance to allow a garage to protrude 7' 4" into the front 25' Setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 25' setback in an R-1, Single-Family Residential District.

Council District 5

The Chair announced the matter, advising it had been recommended for denial. He advised the applicant should address the Board regarding the subject at that time.

Michael Lenz, 7 Van Heuval Street, Mobile, AL, spoke on his own behalf and made the following points in support of the matter:

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- At the time of application, he did not have time to get all the non-bank landowners and homeowners in the subdivision to sign a statement that they have seen the site plan and approve of this request;
- The house is substantially smaller than one of the other houses in the subdivision and smaller than another house in the neighborhood;
- They had a designer draw up the plans for the house. They tried to stay within the setbacks, but when they were finished, they noticed that the corner of the garage on the northwest corner hangs over the setback line about 7' due to the curvature of the street;
- Some of the other lots in the cul-de-sac had 25' setback lines drawn in, but theirs did not;
- If they move the house back, it would have to be about 10' due to the curve, but that puts them into the drainage easement in the back;
- They would like the house to sit on the 25' front setback line to give them a little room outside of the drainage easement.

Mr. Guess asked if the garage could be shifted back on the plans.

Mr. Lenz stated that they looked at that before they made application for the variance. There are two entryways on the back. One leads from the garage into the house, and one will lead directly into a bathroom. There will be a pool and rather than building a separate structure off the house, they will have access into the house. They would have to change both of those openings and revise the whole site plan. It would change the hallways/kitchens and entire layout of the house. It's just the hardship of the lot due to the slope, drainage easement, and the properties on Rochester Road backing up on the rear.

Mr. Guess asked if there was a square footage requirement of the neighborhood.

Mr. Lenz stated that 1800 minimum square feet is listed as the deed restriction. The two other houses are 5700 square feet and 5400 square feet. The plans have already been approved by the architectural committee for the homeowners association, and they have told him that they are not going to approve anything less than 2600 square feet.

Mr. Palombo explained that the staff report states that since the Planning Commission had approved the subdivision and the PUD, the Board has no authority to grant the variance on the front setback at this site. An application should be made to the Planning Commission to possibly reduce his front yard setback from the required 25' to 20'; the PUD would allow that as well.

Mr. Guess asked for clarification that the Board did not have authority on the variance for the setback.

Mr. Lawler stated that a PUD is a plan that is presented to the Planning Commission and that a PUD can be amended by making an application to the Planning Commission. He wasn't familiar with an instance where they have had an application for a variance to a PUD; that is something that the Planning Commission has jurisdiction over. If they go to the Planning Commission and make such a request, it can be granted.

Mr. Guess stated that he remembered having some cases having to do with fences and walls.

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Mr. Palombo asked how much room they had between the structure and the easement and if they shifted the house back to the easement line if it would get them out of the setback area.

Mr. Lenz stated that they could do that, but when they walked the lot, they didn't want to have the easement as their back yard. It would require substantial landscaping, and it was still an easement so anyone could come back there along that 10'.

Mr. Palombo said that what he was telling the Board is that Mr. Lenz has bought two lots adjoining a PUD approval and subdivision approval. He's suggesting that if the Lenzs wish to continue building the house per these plans that he apply to the Planning Commission for a subdivision creating a one lot subdivision and a PUD, asking the Commission to allow them to build this small portion within the setback. The Commission does have the authority to reduce the front setback to possibly 20' which may get them the portion of the garage in the setback. He agreed that there is a physical hardship on the lot, and the Commission can look at that and maybe grant a reduced setback on that portion.

Mr. Lenz stated that he'd talked to Mr. Don Coleman and the office staff twice and was advised that the variance process might be quicker and easier for such a small area. He stated further that he was told that he could go to the Planning Commission if the variance application didn't work.

Mr. Metcalfe stated that he understood if the Board had no authority here. But he was concerned that the applicant is here now, has talked to the staff, and has spent time and money, and this is the first he's heard about the Board not having the authority to rule on his application.

Mr. Lawler stated that he is unfamiliar with that as an approach. He did know of one case where they had a subdivision that resulted in a variance; this was a case in Huntsville, not Mobile. Generally speaking though, this situation would be better handled by a PUD. But, he thought that they could go ahead and consider it.

Mr. Guess stated that they did have the other property owners attesting to their approval to it. He thought it was just a matter of procedure, but he didn't want to overstep the bounds of the Board. In his experience, there have been other cases they have heard where they have had authority regarding setbacks.

Mr. Lawler stated that those were setbacks as determined by the zoning ordinances.

Mr. Palombo stated that the majority of the setbacks that the Board reviews are old subdivision plats that have no setbacks line illustrated, or they are side yard and rear yard setbacks. Side yard and rear yard setbacks aren't placed on final plats.

Mr. Guess was thinking of the Springhill area where they approved a wall for a PUD. He wondered if they should approve it subject to approval from the Planning Commission.

Mr. Palombo said that a wall is a different thing. He would try to find out what happened with this application, although that was no help to the Board or the applicant. He would also try to get this case on the next Planning Commission agenda.

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Mr. Guess asked what the hardship would be for the Board to approve or disapprove this application; he asked what would be the legal aspect for the Board considering it.

Mr. Lawler stated that if they were to hear it with a question about the jurisdiction, and they were to approve it, then they would have the situation of whether or not someone would raise an issue about that later. There could be an appeal. If 15 days went by and there was no appeal, then it would probably be a done deal.

Mr. Palombo suggested that they could approve it subject to approval by the Planning Commission. He could give Mr. Lenz a subdivision and PUD application and get it on the March agenda.

Mr. Metcalfe asked the applicant if he could start doing site work, and he got on the Planning Commission, if that wouldn't put him out too much. There are some jurisdictional issues, and he felt like the applicant wouldn't want that coming back to haunt him.

Hearing no opposition or further discussion, Mr. Metcalfe made a motion, seconded by Mr. Coleman to approve the above referenced request, subject to the following condition:

- 1) the applicant submit Subdivision and Planned Unit Development applications to be approved by the Commission prior to any building permits;**
- 2) that staff will look into assisting the applicant to receive land disturbance to allow the applicant to surcharge, scrape or remove dirt prior to the approval by the Commission of the Subdivision and Planned Unit Development; and**
- 3) full compliance with all other codes and ordinances.**

The motion carried unanimously

APPROVAL OF MINUTES:

A motion was made by Mr. Coleman, with second by Mr. Davis, to approve the minutes from the following Board of Zoning Adjustment meetings:

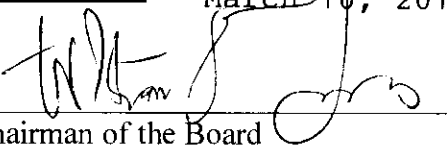
- August 6, 2012

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: March 10, 2014


Chairman of the Board

/lw