

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF APRIL 2, 2012 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

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

MEMBERS ABSENT

Sanford Davis
J. Tyler Turner*

STAFF PRESENT

Frank Palombo, Planner II
Caldwell Whistler, Planner I
Sondi Galanti, Secretary I

OTHERS PRESENT

John Lawler, City Attorney
George Davis, City Engineering
Butch Ladner, Traffic Engineering
Gerard McCants, Urban Forestry
Capt. James May, Fire and 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 number of members present constituted a quorum. He advised that it would require four members to vote in the affirmative to approve any variance and then called the meeting to order. He also stated that he will recuse himself from the first three cases on the agenda, and Mr. Coleman will serve as the Chair on those matters. The supernumerary will vote on those cases in his stead.

HOLDOVERS:

#5733

(Case #ZON2012-00004)

American Family Care

5235 Rangeline Service Road South

(South side of Rangeline Road South, 160'± East of Halls Mill Road).

Sign Variance to allow three additional wall signs for a tenant and two additional wall signs for a corner tenant in a group business site in a B-3, Community Business District; the Zoning Ordinance allows one wall sign per tenant or one wall sign per street frontage for a corner tenant and one freestanding sign for the development on a group business site in a B-3, Community Business District.

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

The following people spoke in favor of the application:

1. Cindy Humphries, American Family Care, 2147 River Chase Office Road, Birmingham, AL, who spoke on her own behalf, and
2. Randy Johansen, American Family Care, 2147 River Chase Office Road, Birmingham, AL, who spoke on his own behalf.

The made the following points in favor of the application:

- They are asking for additional signage for Tillman's Corner location;
- They are directly off interstate in front Walmart off of a service road;
- They have no signage on the end of the building facing Rangeline Road.

The Chair asked the location of the signage as it appears now.

Ms. Humphries stated that the sign is on the front of the building. The building was already laid out as it is an old Blockbuster store, and it faces Whitney Bank. There are three access roads going into Walmart. Two of the three access roads gives them no visibility.

Mr. Coleman asked if the requirement was only one sign, or if two were allowed.

Mr. Palombo stated that for a single business, two wall signs were allowed, but only one sign per business is allowed for a multi-tenant site.

Mr. Coleman asked whether they were asking for two or three additional signs.

Mr. Johansen verified that they are asking for three additional signs: one on the back of the building, one on the side facing Walmart, and one on the side facing Rangeline Road. They do have Verizon in their building as a tenant and part of the request includes a sign for Verizon.

Mr. Metcalfe stated that they do have visibility because they have a 40' sign already. The ordinance allows for one wall sign per tenant.

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Mr. Palombo stated that American Family Care would be allowed one sign, and Verizon would be allowed one sign.

Mr. Coleman asked if the signs were up already.

Mr. Palombo stated that they permitted one wall sign and one free-standing sign.

Mr. Johansen stated what drove this variance application was getting signage on the front of the building facing Rangeline Road. Verizon and American Family Care were both asking for signs facing Walmart as well.

Mr. Metcalfe asked if they were allowed one extra sign per tenant, where they would want it.

Both Mr. Johansen and Ms. Humphries stated that Rangeline Road would be their first choice.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

Mr. Milling stated that he drove out there, and he doesn't see the hardship. They appear to have good visibility in all directions with the pylon sign, so he isn't sold on the hardship.

Ms. Humphries stated that when someone is coming down from Government past Lowe's, the sign isn't visible until closer to the site.

Mr. Metcalfe stated that the orientation of the building does present a hardship.

A motion was made by Mr. Metcalfe with second by Mr. Milling to deny the request for three additional wall signs; however, the Board approved one additional wall sign, subject to the following conditions:

- 1) the additional wall sign is to be placed on the North wall of the building; and,**
- 2) full compliance with all other municipal codes and ordinances, including the obtaining of an after-the-fact sign permit for the additional wall sign.**

The motion carried unanimously.

#5734

(Case #ZON2012-00384)

American Family Care

535 Schillinger Road

(Southeast corner of Schillinger Road and Thomas Road).

Sign Variance to allow three additional wall signs per tenant on a group business site in a B-3, Community Business District; the Zoning Ordinance allows one wall sign per tenant and one freestanding sign for the development on a group business site in a B-3, Community Business District.

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

The following people spoke in favor of the application:

1. Cindy Humphries, American Family Care, 2147 River Chase Office Road, Birmingham, AL, who spoke on her own behalf, and
2. Randy Johansen, American Family Care, 2147 River Chase Office Road, Birmingham, AL, who spoke on his own behalf.

They made the following points in favor of the application:

- On Thomas Road, they are asking for the variance just for themselves as they understand that their tenant can have a sign there as well.

Mr. Palombo stated that was correct.

Mr. Coleman asked if their primary sign faces Schillinger.

Mr. Johansen responded that the primary signage for both American Family and their tenant faces Schillinger. On Thomas, the tenant would be allowed a sign, and they are requesting a sign also. They did request signage on the back and the south side that faces the Walmart parking lot as visibility there is weak.

The Chair asked if there were any questions from the Board.

Mr. Metcalfe stated that he thought this site was considerably different than their previous application. He stated that they have excellent visibility on Schillinger's Road as well as a tenant sign. The Board has been very careful on this stretch that has been brought into the City in their dealings with other signs right down the street.

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

The motion carried unanimously.

#5735

(Case #ZON2012-00392)

American Family Care

900 Montlimar Drive

(West side of Montlimar Drive, 615'± South of Airport Boulevard).

Sign Variance to allow wall sign for a single business that exceeds 30% of the usable wall area in a B-3, Community Business District; the Zoning Ordinance limits the size of wall signs to no more than 30% of the usable wall area in a B-3, Community Business District.

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

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The following people spoke in favor of the application:

1. Cindy Humphries, American Family Care, 2147 River Chase Office Road, Birmingham, AL, who spoke on her own behalf, and
2. Randy Johansen, American Family Care, 2147 River Chase Office Road, Birmingham, AL, who spoke on his own behalf.

The made the following points in favor of the application:

- They were asking for a sign on the truss that is over the porte-cochere;
- They are going to remove the other two signs from the sides of the building.

Mr. Metcalfe asked if the were removing the other two signs why they would need a variance.

Mr. Palombo verified that the variance was required because the sign exceeded 30% of the size of the truss, not the building.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in favor of the matter and opened the floor to their comments. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe with second by Mr. Milling to approve the above referenced request, subject to the following conditions:

- 1) **all other wall signs are to be removed, and,**
- 2) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

EXTENSIONS:

#5695

(Case #ZON2011-01672)

Alabama Realty Company, Inc.

2600 McVay Drive North

(North side of McVay Drive North, 290'± West of Navco Road).

Height, Residential Buffer, Setback, Surfacing, Parking, Landscaping and Tree Planting Variances to allow the construction of a 130' tall communications tower within 50' of a residentially zoned property with no landscape buffer or buffer fence, and within 69.8' of the North lease parcel line, 50' of the West lease parcel line, and 103.5' of the South lease parcel line, with a gravel access drive, no designated parking, and no landscaping or tree plantings in a B-1, Buffer Business District (rezoning pending); the Zoning Ordinance restricts height to 45' and requires a residential buffer of 200' with a either a 10' wide, 6' high vegetative buffer or a 6' high wooden privacy fence, setbacks of 130' from each lease parcel line, all driveways to be surfaced with asphalt, concrete, or an approved alternative surface, at least one designated parking space, and tree plantings and landscaped area in a B-1, Buffer Business District.

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The Chair announced the matter, advising it had been recommended for approval for six months through October 2, 2012 and that the applicant should address the Board regarding the subject at that time.

Adam Kirk, Hardy Engineering, Inc., 209 Linden Street, Trussville, AL, spoke on behalf of the applicant and made the following points in support of the application:

- They did the site design on this project and submitted their plans for the building permit on February 29th in an effort to make the March 12th deadline;
- They got all the comments back from all departments within 7-10 days;
- They have addressed all the comments;
- The main holdup to re-submit to get the building permit is the antenna site registration number from the FCC.

The Chair asked if there were any questions from the Board. He asked why the tower wasn't centered in the middle of the site.

Mr. Kirk stated that he wasn't involved at that time.

Mr. Palombo stated that there could be many reasons why it isn't centered: specific section that the landowner wanted to lease, wetlands, topography.

Mr. Kirk agreed that there are wetlands on the site.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe with second by Mr. Coleman to approve a six-month extension through October 2, 2012, subject to the following condition:

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

The motion carried unanimously.

PUBLIC HEARINGS:

#5738

(Case #ZON2012-00717)

Lee, Lorin, & Todd, LLC

354 St. Francis Street

(North side of St. Francis Street, 53'± West of North Claiborne Street).

Surfacing, Maneuvering, Tree Planting, and Landscape Area Variances to allow a commercial parking lot partially surfaced with gravel with a substandard accessway and no tree plantings or landscaping area in a B-4, General Business District; the Zoning Ordinance requires commercial parking lots to be paved with asphalt, concrete, or an

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approved alternative surfacing, and requires accessways for two-way traffic to be at least 24 feet in width in a B-4, General Business District. Additionally, tree plantings and landscaping area must be provided.

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

Jerry Byrd, Byrd Surveying, Inc., 2609 Halls Mills Road, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the application:

- Owners purchased the site with existing building and asphalt parking lot;
- They planned to renovate and turn the building into apartments;
- After the purchase, an architect's analysis determined that it would be better to tear the building down than to renovate;
- The building was removed;
- They looked at building a new building with the same footprint, but economic downturn has prevented his client from doing that;
- They installed aggregate to keep erosion down;
- The Bar next door wants to lease the site for off-street parking;
- The owners installed an ornamental iron fence with electric gate on side where there were no building walls;
- They would like to keep the aggregate and prefer not to landscape as they plan to build an apartment building when possible, and they will do it then;
- Maneuvering is tight, but many areas downtown have tight driving lanes;
- They are only short 4' in one driving lane and 2' in the other;
- The plan allows for full-depth in the parking area per city code and left the shortage in the driving area;
- Parking lot lighting was to be installed, but he hasn't checked on that lately.

The Chair asked if there were any questions from the Board.

Mr. Metcalfe asked if they could comply with the landscaping and without making the driving lanes any smaller than they already are.

Mr. Byrd stated that there are some void areas where something could be planted at the ends, but he'd have to ask how to apply the code since there is no building.

Mr. Milling asked how long the parking lot lease with The Bar is – whether it is temporary or not. The applicant stated that the intent is to build a building on the site, and he's not sure whether that is disingenuous or not. On November 29th, applicant got a recommendation from the staff on things that needed to be done, and it appears that he just ignored that and did what he wanted to do. Mr. Milling asked if that seemed like a fair assessment.

Mr. Byrd replied that he wasn't involved until after the first of the year. He thought that some of the striping on the aggregate was spray-painted on it; he didn't know if that was done by the owner of the site or The Bar.

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Mr. Palombo stated that the staff talked to the owners in October or November last year and advised what would be required to make it a commercial parking lot: asphalt or concrete, buffers, landscaping. Two to three months ago, staff noticed the fence and aggregate and thought it was a violation.

Mr. Milling asked if the Board had the ability to grant a variance with a time-constraint on it.

Mr. Palombo replied that the Board did have that ability.

Mr. Milling asked what the precedent is on granting a variance with a time-constraint.

Mr. Palombo stated that it is normally a year and it could be conditional that within the year an application be submitted to the Board again.

Mr. Metcalfe asked the staff if there were any surface variances granted in the TBD.

Mr. Palombo stated that he wasn't aware of any in the past 15-20 years. If there were any, it would be in an R-B zoning district.

Mr. Guess asked for comments from Traffic Engineering.

Mr. Ladner commented on the need for directional signage and that if gate was to remain, they must be where person opening and closing it was not parked on the street. The 12' aisle width at the top is a little problematic as it makes the turn in circulating a little tight, and they might be better served to make both aisles 21'. They could have two one-way drives, or one two-way drive.

Mr. Guess asked for verification as to whether the current 20' sub-standard curb-cut was existing.

Mr. Byrd replied that it was – the gate is 20'.

The Chair stated that the discussion was whether or not to set a sunset time-frame on the variance request. He asked if there were those present in favor of the matter and opened the floor to their comments. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments.

Mr. Metcalfe asked that if the Board approved the waiver of the landscaping and trees if it would be reasonable for the Board to ask that they get with Urban Forestry and do some sort of landscaping and trees, within the limitations of the site, even though not up to code.

Mr. Palombo stated that it would be reasonable. The requirement is for 12% of the total site to be green, but the Board could set aside anything below that while it is being used as a parking lot, and that would change once the building is built.

A motion was made by Mr. Coleman with second by Mr. Metcalfe to approve the above referenced request, subject to the following conditions:

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- 1) limited to one year, until April 2, 2013;**
- 2) landscaping and tree planting to be coordinated with Urban Forestry;**
- 3) the existing gate is to be removed or re-aligned;**
- 4) after-the-fact building permits are to be obtained for all work done without permits;
and,**
- 5) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5739

(Case #ZON2012-00734)

Redbone Properties, LLC

711 St. Louis Street

(Southeast corner of St. Louis Street and North Scott Street).

Use Variance to allow a woodworking and metal fabrication business in a B-4, General Business District; the Zoning Ordinance requires a minimum of an I-1, Light Industry District for metal fabrication.

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

Kevin Hollingshead, 711 St. Louis Street, Mobile, AL, spoke on his own behalf and made the following points in favor of the application:

- He bought the building about three years ago and has been unable to lease it;
- He builds furniture on the side, making prototypes and small batches and outsourcing larger orders, so he thought it would be a good location for him to build furniture;
- He does need to do a little welding on the furniture as well, and an I-1 zoning district is required for that.

The Chair stated that there appeared to be a discrepancy with the number of employees and asked if there were two or not.

Mr. Hollingshead stated that it would be him and his business partner, but no other employees.

Mr. Guess asked how he received materials/supplies.

Mr. Hollingshead stated that he would pick up materials and bring to the site as he works with very small batches, no mass production.

The Chair asked if there were further questions from the Board.

Capt. May advised the applicant that since it is a woodworking shop, it would have to have a sprinkler system installed per the 2009 code.

Mr. Metcalfe clarified that they were talking about a use variance, not a zoning change.

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Mr. Ladner asked if the parking area was existing and stated that although Traffic is not requiring any changes now, if the applicant gets ready to do improvements in the future, he might consider having three stalls facing west on one side and three facing east on the other side so he would have enough room to back out and exit onto St. Louis Street without back into the street.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in favor of the matter and opened the floor to their comments. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments.

Mr. Guess asked if the furniture was made one piece at a time and if it was like art.

Mr. Hollingshead stated that they do commission jobs, take orders, and if they come up with a design they like, they outsource it to cabinet makers in Mobile and Baldwin County for production.

The Chair opened the matter for a motion.

A motion was made by Mr. Coleman with second by Mr. Milling to approve the above referenced request, subject to the following conditions:

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

The motion carried unanimously.

#5740

(Case #ZON2012-00746)

Patricia D. Jackson

2667 Government Boulevard

(South side of Government Boulevard, 315'± South of Kreitner Street).

Use, Tree Planting, and Landscape Area Variances to allow an automobile repair business on a lot split-zoned between a B-2, Neighborhood Business District and an R-1, Single-Family Residential District with no tree plantings and reduced landscape area; the Zoning Ordinance requires a minimum of a B-3, Community Business District for an automobile repair business and full compliance with the tree planting and landscaping areas.

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

Don Rowe, Rowe Surveying & Engineering Co., Inc., 3755 Cottage Hill Road, Mobile, AL, spoke on behalf of the applicant and made the following points in favor of the application:

- The request is for an auto repair shop in a B-2 zone;
- B-2 is a bit of a misnomer as the uses on Highway 90 start with a car lot next door, and except for a lounge on the other side of the subject property, there are car lots up and down Highway 90 to Fairway Drive;

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- The site had a B-3 use from 1957-2008, at which time a slightly lower automotive use came in;
- The site is vacant now;
- It is not out of character to have automotive related industry in this area.

The Chair asked if there were any questions from the Board.

Mr. Metcalfe asked if the site was owner or tenant-occupied and suggested that the owner apply for a zoning change so this didn't come up again.

Mr. Rowe stated that it is tenant occupied, and he applied for variance because he understood it had to be 2 acres for zoning change to B-3.

The Chair noted that, from the photos, the property appeared to be open in the back to the adjacent properties.

Mr. Rowe stated that he thought the owner would be willing to put up a wooden fence.

The Chair asked if there were any further questions from the Board. Hearing none, he asked if there were those present in favor of the matter and opened the floor to their comments.

Marl Cummings, 1 Houston Street, Mobile, AL, spoke on his own behalf and made the following points in favor of the application:

- The past few tenants have been a used car and tire site and a car rental company prior to that;
- The site is very small – only about 1/3 acre;
- Most of the front area is asphalt – no green strip in front;
- Prospective tenant plans to use property as is with no changes;
- The building is about 3400 – ½ shop-space with roll-up doors;
- The site isn't big enough to add landscaping without disrupting the proposed tenant's use.

The Chair asked if there were those present in opposition to the matter and opened the floor to their comments. None were present. The Chair commented that the non-conforming use has been long-term, and the site appears to be set up for that type of application. He also thought that a privacy fence on the rear would be necessary, and that a small green-space in front might cause light-of-sight issues for Traffic Engineering. He opened the matter for a motion.

A motion was made by Mr. Coleman with second by Mr. Metcalfe to approve the above referenced request, subject to the following conditions:

- 1) installation of a privacy fence along the rear property line; and,**
- 2) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5741

(Case #ZON2012-00748)

Gaylord C. Lyon, III

3771 Amruth Drive

(South side of Amruth Drive, 255'± East of Fenwick Road).

Side Yard Setback Variance to allow the construction of an addition within 5 feet of the side property line (with a combined side yard of 17 feet) in a R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard setback of 8 feet (with the sum of both side yards totaling 20 feet) in an R-1, Single-Family Residential District.

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

Don Williams, Williams Engineering, 6300 Piccadilly Square Drive, Mobile, AL, spoke on behalf of the applicant, and made the following points in favor of the application:

- House is in Llanfair subdivision;
- Large picture shows nice size lots and houses;
- Most are 100' wide lots with 10' side yards – houses 70-80' wide;
- All have driveways that go down the side to carports/garages in back;
- Site has a single-car carport that is accessed by going around the right side of the house and doing a 180 degree turn;
- Applicant plans to close in carport to add den, and therefore wants to add freestanding carport in back yard;
- The plan calls for a carport setback varying from 5-6' due to the angle of the side property line and position of house;
- Outbuilding shown on site is no longer there;
- The neighbor's back yard is generous, and there is about 100' to his carport next door;
- There will be gutters/downspouts to direct water to applicant's drainage rather than the neighbor's property.

The Chair asked if there were any questions from the Board. Hearing none, the Chair verified the maneuvering of the current carport and asked if it is traditional in this neighborhood for carports/garages to be visible from the street.

Mr. Metcalfe verified that he had spoken with neighbor and they have similar setup as this one, and neighbor has no problem with this plan.

The Chair asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe with second by Mr. Coleman to approve the above referenced request, subject to the following conditions:

- 1) **the provision of gutters and downspouts along the West side of the structure; and,**
- 2) **full compliance with all other municipal codes and ordinances.**

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The motion carried unanimously.

#5742

(Case #ZON2012-00750)

Wrico Signs, Inc.

5319 U.S. Highway 90 West

(South side of U.S. Highway 90 West, 420'± East of Rangeline Road).

Sign Variance to allow two additional wall signs for a tenant in a group business site in a B-3, Community Business District; the Zoning Ordinance allows one wall sign per tenant and one freestanding sign for the development on a group business site in a B-3, Community Business District.

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

The following people spoke in favor of the application:

- 1) Wade Wright, Wrico Signs, Inc., 3345 Halls Mill Road, Mobile, AL, spoke on behalf of the applicant, and
- 2) Phil Broadus, Five Guys, 5319 U. S. Highway 90 West, Mobile, AL, spoke on his own behalf.

They made the following points in support of the application:

- The request is for two additional signs – one on the northwest side of the building and one on the south side of the building;
- He feels he needs the signs to compete in the area and for the restaurant to survive;
- The site was a restaurant in years past before the area was annexed by the City, and the signs were in the same location as he is requesting;
- Most restaurants in the area have three+ signs;
- The store was opened with just one sign that Wrico installed;
- The opening was soft which is uncharacteristic for Five Guys' locations;
- The restaurant isn't performing up to their budget;
- They have had complaints from frustrated customers that knew they opened in Tillman's corner but couldn't find the location;
- The rear of the building faces Halls Mill, and the traffic pattern comes in from Lowe's;
- The side of the building is visible from Rangeline and Highway 90;
- They had signs installed by an outside contractor on the side of the building that they thought were approved, and since that time their sales have increased over 20%;
- If signs are not approved, he feels that it will affect their ability to survive.

Mr. Metcalfe stated that they just went through a similar hearing on the a previous item on the agenda where the location is right down the street. He asked which side of the building Mr. Broadus would choose to put the sign if the Board were to approve one additional sign on order to remain consistent with the previous decision.

Mr. Broadus stated that he would choose to put it on the south side of the building.

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The Chair asked if there were any more questions from the Board.

Mr. Coleman asked if they had a pylon sign out front.

Mr. Broadus stated that there is a monument sign that is shared by all the tenants in the space.

The Chair asked if there were any more questions from the Board. Hearing none, he stated that he travels this area frequently, and the sign facing the I-Hop has no value as it can't be seen. He found the location based on the rear sign when he went out to the site. He agrees that due to the number of roads, the layout of roads, and the amount of traffic in the area that visibility is difficult. The rear sign does add value based on the traffic flow.

The Chair asked if there were any further questions from the Board. Hearing none, he asked if there were those present in favor or opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe with second by Mr. Milling to deny the request for two additional wall signs; however, one additional wall sign was approved, subject to the following conditions:

- 1) the additional sign is to be placed on the South side of the building;**
- 2) obtaining of an after-the-fact sign permit for the additional sign; and,**
- 3) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5743

(Case #ZON2012-00751)

John Wilson

2010 Emogene Street

(Northeast corner of Emogene Street and South Fulton Street).

Side Yard Setback, Rear Yard Setback, Side Street Yard Setback, and Combined Side Yard Variances to allow the construction of a two-story garage/family entertainment and recreation room within 5 feet of the side property line and 5 feet of the rear property line, and to allow the construction of a bathroom addition on the dwelling within 11.7 feet of the side street property line with a combined side yard total of 16.6 feet in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard and rear yard setback of 8 feet, a minimum side street yard setback of 20 feet, and a combined side yard total of 20 feet in an R-1, Single-Family Residential District.

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

The following people spoke in favor of the matter:

- 1) John Dendy, John Dendy and Associates, 308 St. Louis Street, Mobile, AL, spoke on behalf of the applicant;
- 2) John Wilson, 2010 Emogene Street, Mobile, AL, spoke on his on behalf.

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They made the following points in support of the application:

- The Wilsons would like to upgrade property by demolishing existing two-car garage which is too small for use by two cars;
- They want to build a new two-story garage with a bonus-room on the second floor;
- They wish to add-on a master bathroom to the existing house;
- The majority of houses in the neighborhood have garages on or near the property line;
- Most were built in the 30's and 40's, and they wish to preserve the historic look of the area.

The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those in opposition to the matter and opened the floor to their comments. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Metcalfe with second by Mr. Coleman to approve the above referenced request, subject to the following conditions:

- 1) **the provision of gutters and downspouts along the North and East sides of the garage/recreation building; and,**
- 2) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

#5744

(Case #ZON2012-00752)

Anthony Denson

704 South Broad Street

(West side of South Broad Street, 155'± North of Virginia Street).

Use, Parking Ratio, and Multiple Building Variances to allow an 800 square foot take-out restaurant with an existing detached storage building with two parking spaces in an R-3, Multiple-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for restaurant, Planned Unit Development approval for multiple buildings on a single building site, and four parking spaces.

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

The following people spoke in favor of the application:

- 1) Brett Orrell, Polysurveying, Inc., 5588 Jackson Road, Mobile, AL, spoke on behalf of the applicant; and,
- 2) Anthony Denson, 2286 Chapel Hill Drive, Mobile, AL, spoke on his own behalf.

They made the following points in support of the application:

- The site is north of Pollman's Bakery on S. Broad Street;
- It is currently R-3 zoned;

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- They are wanting to put in a walk-up restaurant;
- They sent the plans to Traffic to review in advance because there is a 36" live oak tree dead center of the property that hinders the driveway;
- Mr. Denson improved the driveway to 20' width – it should be 24' and Traffic wanted it to be 22', but they can't do that without taking the tree;
- They met with David Daughenbaugh, and he said it would be hard to take down the tree;
- Parking is to be strictly for employees;
- They will put up signs for "walk-up traffic only" for patrons of the sandwich shop;
- Shop hours will be 10:00 a.m. – 7:00 p.m.;
- There is plenty of room for a dumpster and access;
- There will be no delivery trucks for product – they will pick up their supplies;
- They have storage in the back.

The Chair asked if there were any more questions from the Board.

Mr. Ladner asked if Mr. Denson owned the property and if they had considered rezoning rather than applying for a variance.

Mr. Orrell replied that there were so many hardships with the site that, after meeting with Urban Forestry on the tree and getting the comments from Traffic, that applying for a variance was the best way to go due to walk-up and parking issues prior to applying to rezone.

Mr. Metcalfe stated that he was concerned that they say that it is walk-up only. Many people will not walk from offices but will drive instead. There will be problem with parking, and the two signs may not solve it.

Mr. Denson stated that he thought that he would do well without the drive-up traffic as there is constant walking traffic in the area.

Mr. Metcalf asked if, in anticipation of the growth of the restaurant and future parking problems, he would consider putting chain across the drive to keep people from trying to pull in.

Mr. Denson said that they would definitely deal with it as it grew.

Mr. Metcalfe asked what type of construction materials would be used for the building.

Mr. Orrell stated that it would be a metal building with asphalt parking. They have no problem adding parking for drive-in customers with the potential for turn-around; the two-way in/out and 22' driveway was the requirement they couldn't meet.

Mr. Palombo asked how many parking spaces they could get on the site.

Mr. Orrell thought they could get six parking spaces, and he asked what the requirement would be according to the zoning ordinance. He asked if they could do an offsite dumpster.

Mr. Denson stated that there would be only two employees – he and his father.

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The Chair asked if there were any more questions from the Board. Hearing none, he asked if there were those present in favor of the matter. Hearing none, he asked if there were those present in opposition to the matter and opened the floor to their comments.

Mr. Michael Anthony Hendrix, 4344 Orbit Avenue, Saraland, AL, spoke on his own behalf and made the following points in opposition to the matter:

- He owns the property next door to the proposed restaurant site at 702 S. Broad Street;
- The property is in an historic district as it was extended to Virginia Street;
- His business is located at 700 S. Broad Street;
- He has been in business there for 25 years and has owned the property since 1991;
- His business is a salon that closes at 6:00;
- The neighboring business on the corner, a fish house, normally closes at 5:00 or 6:00;
- Pollman's closes at 5:00;
- He submitted a photo of his property for the Board's review;
- He leases 702 S. Broad Street out, and his tenant has medical issues due to chemotherapy at this time;
- His tenant, who is also his sister, is concerned about the noise and crime with dumpster being emptied/replaced and customers hanging around;
- He submitted a written statement from his tenant regarding her concerns.

The Chair asked Mr. Hendrix what his hours were, whether or not he had on-site parking, and whether or not he had a dumpster. He asked the same questions regarding the neighboring fish house.

Mr. Hendrix stated that his hours are 8:00 a.m. – 6:00 p.m., he does have on site parking, but he has regular garbage service (no dumpster). The fish house has on-site parking. His tenant's bedrooms are located on the side of the house where the proposed parking lot and dumpster will be. He stated that there is a garage apartment on the proposed site, and the applicant's father is staying in it. They painted and replaced windows over an extended period, and there was a lot of noise during that time.

The Chair asked if there were any further questions from the Board.

Mr. Orrell asked if they would consider holding the case over so that he could revise the site plan to show the dumpster and the parking/traffic flow.

Mr. Roland Denson, the applicant's father, 1056 Selma Street, Mobile, AL, spoke on his own behalf and made the following statements in support of the application:

- He does not reside on the site in question;
- He owns and lives at 1056 Selma Street, Mobile, AL;
- He was told by Planning that Mr. Hendrix was operating business without a license;
- He stated that no one would reside in the garage apartment;
- It took them a long time to renovate the garage apartment because it was an eyesore, took a lot of work and time to pay as they went.

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The Chair asked if anyone was going to live in the garage apartment, and if not, what would it be used for.

Mr. Anthony Denson stated that the garage apartment was renovated for insurance purposes. It will be used for storage, and no one will live there. He stated that he has owned the property for two years. Mobile Police Department is directly across the street, and he's had no reports of crime.

The Chair asked if there were any further comments from the Board. He verified that the applicant's representative wanted to hold the matter over to revise the site plans.

Mr. Metcalfe asked if he had heard correctly that this was in a Historic District. He was also concerned that the neighborhood has character, and he was concerned about the look of a metal building.

Mr. Roland Denson said that the original plan was going to be a metal building, but that he is financing the construction, and it will be concrete and brick and will beautify the area.

Mr. Metcalfe suggested that when they came back before the Board that they show the elevation so that the Board doesn't approve anything that is detrimental to the neighborhood.

Mr. Guess also suggested that they review site plans and options with neighbor to try to minimize any hardship on their part.

The Chair opened the matter for a motion to holdover.

A motion was made by Mr. Coleman with second by Mr. Reilly to holdover the above referenced request to allow the applicant to address the following items:

- 1) revision of the site plan to indicate a dumpster location;**
- 2) revision of the site plan to indicate additional parking;**
- 3) submission of building elevations for the proposed building; and,**
- 4) the obtaining of neighborhood comments on the impact of the proposed operation.**

The motion carried unanimously.

#5745

(Case #ZON2012-00753)

Hossein Ali Mohandessi

2600 Government Boulevard

(Northeast corner of Government Boulevard Service Road and Merwina Avenue extending to the Southwest corner of Government Boulevard Service Road and Kreitner Street).

Use and Front Setback Variances to allow an automobile sales business in a B-2, Neighborhood Business District and construction of a building within 5 feet of both the

Kreitner Street property line and the Merwina Street property line; the Zoning Ordinance requires a minimum of a B-3, Community Business District for automobile sales, and setback of at least 20 feet along secondary street frontages.

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

Brett Orrell, Polysurveying, Inc., 5588 Jackson Road, Mobile, AL, spoke on behalf of the applicant; and made the following points in support of the application:

- The property is the old Papa George's restaurant/club location;
- His client is wanting to operate a car sales lot in a B-2 zone as did the neighbor across the street;
- They want to demo the existing building;
- They did go through Planning and get subdivision approval;
- The other issue is the setbacks;
- Currently on the west and north lines, the building is over the property line;
- They are asking for a reduction of setbacks on those two sides to make the site conform to the zoning ordinances as far as parking and landscaping;
- They have resubmitted those plans;
- The size and shape of the property makes it difficult to develop based on the setback requirements of the City;
- There were issues with the previous plan based on the number of cars on the lot - they have scaled it back to roughly ten cars at a time.

Mr. Palombo asked if the application was for both use and setback variances and what the approved setbacks were on the subdivision.

Mr. Orrell stated that it was approved for 150' on Government; there was no change on Kreitner – just whatever the City ordinance requires. The PUD wasn't approved for a reduction in setbacks, so they are before the Board for a reduction in setbacks and the use variance.

Mr. Palombo asked if there were any conditions put on the final plat for the subdivision approval regarding Kreitner and Merwina.

Mr. Orrell replied that there were none listed; he assumed it would be the 20' which made the site unusable.

Mr. Palombo stated that this wasn't the venue for the setbacks; that issue should have been addressed with the subdivision application. He asked if the setbacks have been placed on the final plat.

Mr. Orrell stated that they have not recorded any setbacks.

Mr. Palombo said that he knew that there was talk at the Planning Commission meeting about reducing the setbacks on Kreitner and Merwina, but he didn't know if there was anything specifically stated.

Mr. Orrell agreed that nothing was specifically stated that meeting. He further stated that the main issue was the zoning, and once that was resolved the setbacks went away at that point.

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Mr. Palombo stated that what he remembered was the Government Street setback, instead of dedication.

Mr. Orrell replied that was correct.

Mr. Bijan Mohandessi, 400 Saraland Boulevard South, Saraland, AL, spoke on behalf of the applicant and made the following points in support of the application:

- The main holdup was that they had applied to have 20-25 cars on the lot, and it was thought that they wouldn't be able to accommodate that many with the existing structures on the site;
- Alabama law requires two vehicles to be on site for a used car dealership license;
- Their employees will drive vehicles owned by the company that are for sale, so there will be no need for additional parking for employees;
- The site was originally a bar, and even with the building there, they were still able to park 20-30 cars and allow people to go in;
- Therefore, if he has 10-15 cars there and two customers at a time, he didn't see how there could be not enough parking spaces;
- They had demolished the building and another little piece in the back, and they are going to adjust the building so that it is smaller to allow for more space;
- They have other locations so they isn't their first time to open a lot;
- They have been in business 24 years;
- He wants to see what he needs to do to work this out so that he can open up.

The Chair asked if he had a building under construction on the site now.

Mr. Bijan Mohandessi stated that he was misinformed by a builder that a building permit was not required. As soon as he found out that a permit was required, construction ceased immediately and they filed for the variance.

The Chair verified that the square footage of the new construction is 450 square feet vs. the previous building that was 7500 square feet. He asked if they were approved for a 10' setback, rather than the 5' setback, if that would help.

Mr. Orrell stated that the difference between the 5' and 10' setback would limit the site a lot more due to the parking conformities. They were looking for some relief to allow the business to function properly to allow for 5' and 5'.

The Chair asked if there were any more questions from the Board for the applicant.

Mr. Metcalfe asked how the cars were delivered.

Mr. Bijan Mohandessi stated that they have drivers that will drive each car to the site from another location. There will be no truck delivering to this site. He understands the danger of having a truck unloading vehicles with the traffic in the area.

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Mr Ladner stated that he didn't think that this was going to work due to the size of the lot per Traffic Engineering.

Mr. Orrell stated that he didn't recall any problem with Traffic Engineering approval on this at the Planning Commission meeting. They did contact ALDOT and learned that there were no plans to widen Highway 90. The setback is all the way back where it would be.

Mr. Guess asked how many cars they planned to have on the lot.

Mr. Bijan Mohandessi replied from 10-20, as many as he could and still conform. He stated that prior to having the issue with the permit, they had 25 cars lined up on the front row without any problems.

Mr. Ladner stated that was with head-in parking where they had to back out into the street, and Traffic would not allow that. He didn't see how this would work and allow for customers to park as well.

He realizes that the initial plan of having 25 cars on the lot isn't feasible, and he is willing to do whatever number necessary to make it work.

Mr. Ladner stated that if they could show it on a drawing, to scale, to demonstrate how the cars would be parked and how it would work, it would help.

Mr. Guess stated that if the Board were to approve the application, it would very likely be subject to coordination with Traffic Engineering.

The Chair asked if there was anyone else present who wished to speak on this application.

Mr. Pete Vakakis, 105 Sand Dune Drive, Gulf Shores, AL, spoke on his own behalf and made the following points in support of the application:

- He is the previous landowner of the property in question;
- He serves as a member of the Gulf Shores Planning Commission;
- He operated Papa George's Supper Club out of this location for many years prior to the death of his uncle, and there were many cars coming in and out of the site;
- He just closed the sale of the property with Mr. Mohandessi;
- There was also a large tree that he had to protect as the owner of the property, and he's sure that Mr. Mohandessi would be willing to protect it as well.

The Chair asked if there were any more questions from the Board. Hearing none, he opened the matter for a motion.

A motion was made by Mr. Milling with second by Mr. Coleman to holdover the above referenced request to allow the applicant to address the following item:

- 1) revision of the site plan to indicate the parking/display area for vehicles for sale.**

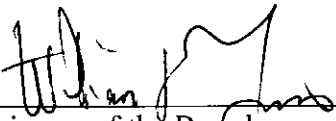
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The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED:



Chairman of the Board

/lw