

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF AUGUST 4, 2014 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, AUDITORIUM

MEMBERS

William Guess, Chairman
Vernon Coleman, Vice Chairman
Sanford Davis
Adam Metcalfe
Jeremy Milling
Russell Reilly
Lewis Golden

STAFF

Bert Hoffman, Planner II
Carla Davis, Planner II
Lisa Watkins, Secretary I

OTHERS

Doug Anderson, Attorney
George Davis, City Engineering
MaryBeth Bergin, Traffic Engineering
Gerard McCants, Urban Forestry
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
✓	Lewis Golden

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 and that the Board was on a supermajority voting system, so it would require approval of five members to pass a variance. He then called the meeting to order at 1:58 PM.

PUBLIC HEARINGS:

#5905

(Case #ZON2014-01402)

Rangeline Business Park, LLC

North side of Abigail Drive, 875'± East of Rangeline Service Road.

Access, Maneuvering, and Buffer Variances to allow a 16' wide entrance drive and 12' wide gate clearance, a 22' wide maneuvering area and 6' high wooden privacy fence around a lay down yard in an I-1, Light Industry District; the Zoning Ordinance requires a minimum 24' wide entrance drive and gate clearance, and a 24' wide maneuvering area and 8' high wooden privacy fence around a lay down yard in an I-1, Light Industry District.

Council District 4

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.

The following people spoke in support of the application:

- B. J. Lyon, 718 Downtowner Boulevard, Mobile, AL, spoke on behalf of the applicant, and
- Charles Chapman, 6215 Rangeline Road, Suite 201, Mobile, AL, spoke on his own behalf.

They made the following points in support of the matter:

- The subdivision is off of Rangeline Road, and it was formerly in the County;
- It is zoned light industrial;
- The buildings have a uniform appearance (pictures provided);
- They have brick fencing that is 75' from the curb in the rear parking lot, and this is where the drive and gates are located that the variance request pertains to;
- Lots 1, 18 and 19 have had variances granted by the Board;
- They have been in compliance in maneuvering area, and the 24' drive is within that area;
- They are requesting a 12' gate and a 16' driveway;
- Lot 19 has a 12' gate and a 16' driveway;
- Lot 18 has a 14' gate and a 20' driveway;
- They don't anticipate 18-wheeler deliveries so there is no need for ingress and egress for anything larger than a FEDEX truck or a light service truck;
- There will be no two-way traffic;
- The rear of the building is within 400' of the fire hydrant so it is within the fire code;
- They are also asking for a 6' wooden privacy fence instead of an 8' privacy fence for uniformity as all the other fences are 6' high and the surrounding properties are all commercial;
- They do have an appointment with staff to discuss a PUD for the remaining lots so they don't have to come before the Board for developing the remaining lots.

The Chair asked if there was anyone present in the audience in favor or in opposition to the matter. Hearing none, he opened the floor for a motion.

August 4, 2014
Board of Zoning Adjustment

After discussion, a motion was made by Mr. Guess, with second by Mr. Golden, to approve the above referenced request, with modifications.

The following findings of fact were determined:

- 1) approving the variance request will not be contrary to the public interest in that it would be consistent with two previous approvals on adjacent lots;
- 2) special conditions, such as the fact that the overall business park properties are to be built according to previously developed standards to provide a consistent street appearance and site development, do exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) the spirit of the chapter shall be observed and substantial justice shall be done to the applicant and surrounding neighborhood by granting the variance because the applicant proposes to submit an application for a Planned Unit Development to address the remaining properties within the development.

Therefore, this application is approved, subject to the following conditions:

- 1) driveway width to be a minimum of 20 feet;
- 2) gate width to be a minimum of 16 feet;
- 3) the 6 foot wooden privacy fence to be provided, as proposed; and
- 4) full compliance with all other municipal codes and ordinances.

The motion passed unanimously.

#5906/5836

(Case #ZON2014-01411)

Gary D.E. Cowles

1601 Dublin Street East

(Northeast corner of Dublin Street and Dublin Street East).

Front Yard Setback Variance to allow reduced setbacks of 15' along the North property line, and 5' along the South property line; the Zoning Ordinance requires a 25' front yard setback along all street frontages.

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.

Gary Cowles, 457 St. Michael Street, Mobile, AL, spoke on his own behalf and stated that he is in agreement with staff recommendations for approval.

The Chair asked if there was anyone present in the audience in favor or in opposition to the matter. Hearing none, he opened the floor for a motion.

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

August 4, 2014
Board of Zoning Adjustment

The following findings of facts for approval were determined by the Board:

- 1) Based on the fact that an almost identical request was previously granted to the applicant, the variance will not be contrary to the public interest;
- 2) These special conditions (lack of sufficient area to develop the site meeting standard setbacks) exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that an otherwise unbuildable property can be developed.

The approval is subject to the following conditions:

- 1) revision of the site plan to dimension the further reduced setbacks within the dumpster area as on the recorded plat of Dublin Street Subdivision;
- 2) revision of the tree planting schedule to specify Live Oak trees at the West end of the site due to overhead power lines;
- 3) submittal of two (2) copies of a revised site plan showing required revisions prior to the submittal of plans for building permitting; and
- 4) full compliance with all other municipal codes and ordinances.

The motion passed unanimously.

#5907

(Case #ZON2014-01415)

Robert & Renea Copeland

5460 Henning Drive West

(Northwest corner of Henning Drive West and Todd Lane).

Rear and Side Yard Setback Variances to allow a structure within 1'7" of the rear property line and a structure within 5'4" of the side property line in R-1, Single-Family Residential District; the Zoning Ordinance requires minimum side and rear yard setbacks of 8' in an R-1, Single-Family Residential District.

Council District 4

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.

The following people spoke in favor of the application:

- Brett Orrell, Polysurveying, 5588 Jackson Road, Mobile, AL, spoke on behalf of the applicant, and
- Robert Copeland, 5460 Henning Drive West, Mobile, AL, spoke on his own behalf.

They made the following points in support of the matter:

- Property is a residential lot that abuts the service road on Rangeline Road;
- They are requesting a variance to allow an existing portable shed on the rear that is within the 8' setback as well as for a playhouse on the side that is within the 8' setback;
- The shed isn't adjacent to any neighbors – it is near a 415' right of way;

August 4, 2014

Board of Zoning Adjustment

- The shed is 2' off the property line, and they are asking for it to be allowed to remain;
- There is poured concrete up to the shed – it has a side access point and an access point close to the house along with a gated fence, so there has been significant cost involved in setting this up;
- There is power to the shed – the electrical is run underneath through the slab, and they realize they will need to pull permits for the shed;
- There is a tree located very closely that would have to come down if they had to move the shed inside of the setback;
- They are trying to utilize as much as much space in the back yard as they can;
- They have discussed raising the fence to 8', but the shed would still be visible from Rangeline Road due to the elevation;
- Mr. Copeland had a meeting with about 34 of the neighbors last week after they all received the public hearing notices about the variance request, and there wasn't any opposition that he was aware of;
- He placed the playhouse near the tree for shade and because there wasn't a tree large enough to build a tree house.

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

Mr. Metcalfe expressed concern that there was a complaint about the structure even if there was no one at his neighborhood meeting who expressed opposition.

Mr. Copeland said that he had hoped that anyone opposed would come to the meeting. He felt like the complaint was due to the visibility from Rangeline Road and the height of the structures which were not against the code. It wasn't until inspectors came by that they realized that the structures had built within the setbacks.

Mr. Guess stated that his only concern was due to the height of the playhouse for the sake of privacy. He asked if there were any windows in the playhouse.

Mr. Copeland replied that there were no windows on the back or the side facing the house; there are windows on the side facing the tree and on the front of the playhouse.

Mr. Guess asked how the playhouse was anchored.

Mr. Copeland replied that it was on 4 by 4's and not tied down; he realized he would have to do some modifications and pull permits.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there was anyone present in the audience in favor or in opposition to the matter. Hearing none, he opened the floor for a motion.

A motion was made by Mr. Milling, with second by Mr. Coleman, to approve the variance request for the shed to be located 1'7" from the rear property line and to deny the request for the playhouse to remain 5'4" from the side property line.

August 4, 2014
Board of Zoning Adjustment

The Board determined the following findings of facts for approval for the storage shed to be located 1'7" from the rear property line:

- 1) Based upon the fact that conditions will be required regarding the permitting and screening of the shed, approving the variance will not be contrary to the public interest;
- 2) Special conditions with the property, such as the fact that the shed has an associated concrete pad and underground electrical wiring, do exist such that a literal enforcement of the provisions of the chapter will appear to result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance for the unpermitted shed due to the required compliance conditions.

Therefore, this request for the storage shed is approved, subject to the following conditions:

- 1) obtain after the fact permits for the storage shed and the electrical connection; and
- 2) increase the height of the abutting fence to 8 feet, as proposed, with the appropriate permits.

The Board denied the request to allow the playhouse to remain 5'4" from the side property line. Therefore, the playhouse should be relocated to a compliant location, a minimum of 8' from the side and rear property line, with the appropriate building permits.

After the fact permits must be obtained within 6 months of the Board's approval.

The motion passed unanimously.

#5908/5515/5434

(Case #ZON2014-01417)

Al Chalmout

1248 Hillcrest Road

(Northwest corner of Hillcrest Road and Grelot Road).

Parking Ratio Variance to allow 31 parking spaces for a 3,761 square foot restaurant in a B-3, Community Business District; the Zoning Ordinance requires 38 parking spaces for a 3,761 square foot restaurant in a B-3, Community Business District.

Council District 6

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.

The following people spoke in support of the request:

- B. J. Lyon, 718 Downtowner Boulevard, Mobile, AL, spoke on behalf of the applicant,
- Dan Elkin, 3601 Springhill Business Park, Mobile, AL, spoke on his own behalf as landlord of the building;
- Jane Conkin, spoke on her own behalf as the owner of the adjacent property, and
- Al Chalmout, 2710 Weston Drive, Mobile, AL, spoke on his own behalf.

August 4, 2014
Board of Zoning Adjustment

They made the following points in support of the application:

- The issue is that there are seven parking spaces less than the required 38 on the site after a patio addition was done;
- The applicant has a shared parking agreement with an adjacent business that was in place prior to the current issue arising;
- The agreement requires that Mr. Chalmout pay 50% of the maintenance of the parking lot and the re-striping;
- There is a 10-foot easement between the two properties, and Mr. Chalmout is willing to construct a sidewalk and a drive-through lane through the curb for access if the Board requires it, although there has not been a problem thus far for people walking. They are cognizant of people with handicaps and will put a sidewalk in if necessary;
- There are some tables and chairs outside on a concrete pad where customers can smoke as it isn't allowed inside, and this area is being calculated in the restaurant square footage which is requiring them to have more parking;
- They would prefer that the variance be granted, but the owner of the adjacent site will file a PUD for shared parking if necessary;
- This restaurant employs a lot of people, and Mr. Chalmout maintains this property well and he also maintains other property that he leases from Mr. Elkin well;
- Customers wait either inside or outside on the front patio for a table in the restaurant, and they may be served drinks and food at times on the front patio.

Mr. Hoffman stated that the covered patio to the north was appropriately permitted as an open patio with expanded parking. The patio on the front is what is causing the parking problem because it is used for extra dining area. The patio on the front wouldn't have required any permits except for the small fence that was erected around it. The covering over the north patio was done without permits and would require that it be inspected and up to code because there are tvs and fans wired in. It would need to be in compliance with the building, fire, and electrical codes. The opinion of the staff is that it would be more appropriate to have them request a PUD to have a City-imposed legal association to ensure that adequate parking is provided because Ms. Conkin's property is already part of a PUD with the property to the west that has storage buildings on it.

Mr. Elkin stated that he would prefer a variance, as he has been involved in PUDs before, and it takes a lot to undo a PUD once they are in place. Should he lease to another tenant in the future, the PUD may not be necessary for that tenant's use.

Mr. Anderson stated that the PUD is a cleaner remedy, but a variance would give them the same result with the shared parking agreement.

Mr. Metcalfe noted that the business owners had done a good job in coming together to resolve the problem, but he thought that they should construct a sidewalk for safety's sake and better access. He stated that construction of a sidewalk should be a condition of any approval. He then made a motion to approve the above referenced matter; Mr. Reilly seconded the motion.

August 4, 2014
Board of Zoning Adjustment

The Board determined the following findings of facts for approval:

- 1) based on the fact that no parking spaces were lost on site, and that there is a parking agreement with the property to the north, approving the variance request will not be contrary to the public interest;
- 2) special conditions with the property do exist, such as the fact that the patio has been constructed, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) the spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance because the applicant has addressed the additional parking need, and due to the conditions that the Board has placed on the approval.

Therefore, this application is approved, subject to the following conditions:

- 1) provision of a paved pedestrian access from the adjacent property providing the extra parking to the site in question, with appropriate permits;
- 2) obtaining the necessary after the fact building, electrical, etc. permits for the second patio with fence, and for the roof structure over the first patio, associated electrical improvements, and other permits as required; and
- 3) full compliance with all other municipal codes and ordinances.

After the fact permits must be obtained within six months of the Board's approval.

The motion passed unanimously.

#5909

(Case #ZON2014-01441)

Francisco & Pamela Codina

4702 Old Shell Road

(Northwest corner of Old Shell Road and Marston Lane).

Side Street Side Yard Setback Variance to allow a 5' tall wrought iron fence with five (5) 6' tall free-standing brick columns within 1' of the side street side yard property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 20' Side Street Side Yard setback for all structures over 3' tall in an R-1, Single-Family Residential District.

Council District 7

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.

Don Williams, Don Williams Development, 316 Wacker Lane North, Mobile, AL, spoke on behalf of the applicant and made the following points in support of the matter:

- They would like to put up a 5' high wrought iron fence with pickets about 4" apart that will be a "see-through" fence around the side yard on Marston and the front yard on Old Shell Road;

August 4, 2014

Board of Zoning Adjustment

- They propose five 24" by 24" brick columns that will be about 6' high, four of which will anchor the gates for stability and the fifth one will be at the corner;
- The gates will be about 20" wide, controlled by remote, on the right-of-way line;
- Traffic is slow on Marston Lane so that it won't be impacted in the time it takes for the gates to swing inward;
- There is a landscape screen that backs off about 25' off the right-of-way line and the fence will be inside of this shrubbery which is about 5' high itself so the fence would be obscured;
- They have kept in mind the visibility triangle from the corner of Marston and Old Shell Road – there is only grass there so visibility will not be impacted and Traffic Engineering has agreed;
- Springhill has a tradition of fences, and there are similar fences in the area;
- The hardship of the property is caused by the sidewalks put in by the Villages of Spring Hill – there is a large tree skirted by a new sidewalk that has been in place about a week, and it is causing pedestrian traffic to step around the tree through the applicant's curved driveway instead of on the sidewalk that is between the tree and the traffic on Old Shell Road;
- This area is traditionally a wet area as water ponds around here, and they feel like more walking traffic will go through the applicants' property to avoid being splashed by passing automobile traffic;
- Most of the nearby properties have vegetative buffers or fences higher than three feet.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there was anyone present in the audience in favor or in opposition to the matter. Hearing none, he opened the floor for a motion.

A motion was made by Mr. Coleman, with second by Mr. Reilly, to approve the above referenced matter.

The Board determined the following findings of facts for approval:

- 1) Based on the fact that fences are not uncommon in the Spring Hill area, and that Traffic Engineering has stated that there will be no line of sight issues, granting the variance will not be contrary to the public interest;
- 2) Special conditions exist, such as the fact that a similar request was approved two properties to the North, that the property across Marston has a wall, and the additional pedestrian traffic is being created by a new sidewalk, such that the literal enforcement of the provisions of the chapter will appear to result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance because the request is similar to and not uncommon for other properties within the Spring Hill area.

Therefore, this application is approved, subject to the following conditions:

- 1) obtaining the necessary building permits for the proposed improvements; and
- 2) full compliance with all other municipal codes and ordinances.

The motion passed unanimously.

#5910

(Case #ZON2014-01442)

Don Williams

4436 Government Boulevard

(West side of Government Boulevard extending to the East side of Demetropolis Road, 500'± North of Government Boulevard).

Use Variance to allow a retail business to have outside vehicle and boat storage in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow outside vehicle or boat storage in a B-2, Neighborhood Business District.

Council District 4

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.

The following people spoke in support of the matter:

- Don Williams, Don Williams Development, 316 Wacker Lane, Mobile, AL, spoke on behalf of the applicant, and
- Shawn Smith, 14100 Joe Hamilton Road, Grand Bay, AL, spoke on his own behalf.

They made the following points in support of the matter:

- This site, located at Demetropolis and Government, used to be a Dairy Queen;
- The entire adjacent shopping center is zoned B-3 as is the shopping center across the street, while this small wedge is zoned B-2;
- They had asked the Planning Commission to rezone to B-3 for a pawn shop, and the request was denied, so now they are before the Board requesting a variance;
- The issue is outside storage – state law requires that pawn shop dealers maintain any collateral on the property and cannot be stored off premise;
- There is a 40' frontage road on Government and a 40' frontage road on Demetropolis;
- There are four curb cuts, two on Government and two on Demetropolis, and the state highway department has asked that they reduce down to one curb cut;
- This site has been vacant for about 20 years which is testimony to the fact that the property is difficult for many uses;
- They want to put in a pawn shop, which is allowed by right in a B-2 district, but they are not allowed to have outside storage or vehicles, boats and trailers inside or outside the building;
- A B-3 zoning district is required for outside storage;
- They feel that the zoning ordinance doesn't adequately embrace the pawn shop business as state law requires that they maintain any collateral on the property and cannot be stored off premise;
- They would like to add onto the building as well as fence in about 5000 square feet with 6' privacy fencing to store boats, trailers and vehicles;
- They can comply with the landscaping requirements;
- They feel that it is in the public interest to allow them to do extensive renovations and restore a building to service rather than allow it to continue to fall apart and have no economic life;

August 4, 2014

Board of Zoning Adjustment

- They plan to spend around \$250,000 renovating the property which is an eyesore and a health-hazard as it is now;
- They have purchased the building and are going to put a pawn shop there, but without the variance, they will be limited in the items they can take in pawn since they are required to store the items on site.

The Chair asked if there were any questions from the Board. Hearing none, he asked if there was anyone present in the audience in favor or in opposition to the matter.

Greg Raines, 5222 Maudlayne Drive North, Mobile, AL, spoke in opposition to the matter and made the following points:

- His property is right next door – he operates Lad and Dad’s Seafood;
- He thinks that this business will be an eyesore that his customers will have to look at when they pull up to his building;
- He doesn’t have an objection to a pawn shop, but his building sits way in the back and the storage area will be right next to him;
- He thinks that if this variance is allowed, it will affect his business.

Mr. Williams showed Mr. Raines on the site plan that the fenced area won’t be right next to his property but rather on the other side of a ten foot drive that runs between the two properties.

Due to the Planning Commission’s denial and the opposition of the neighbor, Mr. Metcalfe made a motion to deny the request for the use variance. The motion was seconded by Mr. Davis. The motion did not receive enough votes to pass as Mr. Reilly, Mr. Coleman, and Mr. Golden opposed the motion.

After discussion, Mr. Golden made a motion to approve the variance with an eight foot fence rather than a six foot fence to further shield the neighboring businesses and landscaping required, with second by Mr. Reilly. The motion failed to pass as Mr. Metcalfe, Mr. Guess, Mr. Milling and Mr. Davis opposed the motion.

The request to allow outside storage for a pawn shop in a B-2 district failed, as there were insufficient votes for a super majority during the motion to approve and during the motion to deny the request.

OTHER BUSINESS:

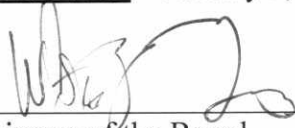
- Approval of Board of Zoning Adjustment 2014-2015 Schedule

A motion was made by Mr. Guess, with second by Mr. Coleman, to approve the above referenced schedule.

With there being no further business before the Board, the meeting was adjourned at 3:29 PM.

August 4, 2014
Board of Zoning Adjustment

APPROVED: January 5, 2015



Chairman of the Board

/lw