

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF JUNE 2, 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.

**APPROVAL OF MINUTES**

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

- July 1, 2013,
- August 5, 2013,
- September 9, 2013,
- October 7, 2013,
- November 4, 2013,
- December 2, 2013.

The motion passed unanimously.

**HOLDOVERS:**

**#5892/4262/3864**

**(Case #ZON2014-00564)**

**Antwan's Exquisite Hair Designs**

1801 South Mott Drive

(Northeast corner of South Mott Drive and St. Stephens Road).

**Use Variance to amend a previously approved Use Variance to allow an accessory car wash with an existing beauty salon / barbershop in an R-1 Single Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District to allow a beauty salon / barbershop and carwash.**

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.

Romona Johnson, 5242 Cedar Lane, Eight Mile, AL, spoke on behalf of the applicant. She made the following points in support of the matter:

- They have a revised site plan to turn in;
- The existing business is a barber shop / hair salon, and they wish to add a carwash use;
- On the new site plan, the car wash will be in compliance with the allowed distance from a residence once they move the car wash structure to be in line with the other building;
- The other adjacent businesses have parking that faces the building, and their parking faces St. Stephens Road instead;
- They will change their parking to match that of the other businesses which will give them the extra space needed for backing out and into the property;
- They will add a wheelchair ramp to the building without affecting any of the trees;
- The applicant believes that there is economic hardship for the residents in the area, and so the car wash was added to provide jobs to people in the area who were otherwise panhandling;
- The applicant obtained a business license, but she was unaware that a permit and a variance would be required;

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- The site has been inspected and a drain added;
- There was a double-gate in the fence that opened onto a neighboring property that made it appear that their car wash spanned further back, but that gate has been removed and it is a solid fence now.

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.

Mr. Johnnie Ray, 1804 St. Stephens Court, Mobile, AL, spoke in opposition and made the following points regarding his opposition:

- He lives 300' behind the barbershop, and it is a nuisance to the residents;
- They have been washing cars after being issued notice of violation;
- They are partners with the man who bought property on the other side of the Ray's house, and that man is washing cars in a residential area;
- The double-gate is still there between the properties;
- The neighbors have had to call the police as late as 9:00 and 10:00 PM to listen to the music coming from the cars where people hang out drinking and partying;
- They have been washing cars there for at least ten years at the barber shop and for at least a year at 1803 Mott Drive.

Mr. Metcalfe asked Mr. Hoffman if the staff had received complaints about 1803 Mott Drive.

Mr. Hoffman stated that inspectors had visited both 1801 and 1803 Mott Drive. The property owner at 1803 Mott Drive was very upset when he was told that it appeared that he was operating a car wash at that site, and he insists that he is not. Staff did take pictures that indicate that he may be doing so. He has had a lot of the back yard paved in concrete. He was issued a notice of violation.

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

Mr. Davis asked for a response from the applicant's representative to the previous statements.

Mrs. Johnson stated that her mother-in law and husband were partners in the barber shop and they are not affiliated with the property owner at 1803 Mott Drive. Her mother-in-law has owned the property at 1801 Mott Drive for 20 years, and it has only been used as a car wash recently. When they were told they were operating the car wash illegally, they started the variance process right away. The property owner next to them was denied a permit to operate a car wash – he had a structure, and they had a drain. They considered combining the operation, but the gentleman at 1803 Mott Drive did not want to partner with them. They open at 8:00 in the morning and close at sundown. She cannot help what the neighbors around them are doing.

Mr. Davis stated that he lives near there and knows her mother-in-law. He is very disturbed by what he is seeing, hearing and the discoveries of the staff. These problems did not exist when the business was just a car wash, but it has evolved into something else now.

Mr. Milling asked how the car wash at 1801 Mott Drive works.

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Mrs. Ramona Johnson stated that they have a VIP service where her husband picks up cars, washes them and returns them to the customers. He has a friend who works with him. They typically wash one car at a time as her husband is a barber as well. There are no chairs for people to just sit around waiting on their cars; if they do wait, they wait inside the shop. The partying is going on next door.

Mr. Hoffman stated that the applicant did get a plumbing permit to have a drain put in with the appropriate grease interceptor, but the Zoning Department never had a chance to review and approve it.

Mr. Milling asked if Mr. Ray could come back to the podium. He then asked if the noise was coming from just 1803 or from both facilities.

Mr. Ray said that it was coming from both places, but activity has ceased at 1801 now that they are trying to get their license. He has police reports from 1801 as well.

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

After discussion, a motion was made by Mr. Davis, with second by Mr. Metcalfe, to deny the above referenced variance request.

The Board stated the following findings of fact for denial:

- 1) Approving the variance will be contrary to the public interest in that the site was approved for only 1 commercial use and that two additional commercial uses were added to the site, in addition to a residential addition which is being used commercially without commercial compliance to include accessibility requirements;
- 2) Special conditions do not exist and any apparent hardship appears to be self-imposed by making changes, additions and expansions without appropriate approvals or permits – and doing so after a denial of a permit; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because: the majority of the nearby residentially zoned lots in the immediate vicinity appear to have been developed in observance of Section 64-3.C.1.e of the Zoning Ordinance; the illegal operation of the carwash has negatively impacted the adjacent residential property; due to the fact that the Board recently denied a car wash use immediately next door; and that allowing additional commercial uses that occur outside of the existing salon structure would not be compatible with the residential character of the neighborhood. Furthermore, the expansion of uses and the corresponding change in parking would eliminate landscape areas and trees which maintain at least some level of residential compatibility of the site

The motion passed unanimously.

**PUBLIC HEARINGS:**

**#5894**

**(Case #ZON2014-00898)**

**Jason Bunch (Carfinder's)**

85 Schillinger Road North

(Northwest corner of Schillinger Road North and Airway Park Drive).

**Use and Site Variances to allow the off-site temporary storage of vehicles on a vacant lot with gravel surface in a B-3, Community Business District; the Zoning Ordinance requires asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.**

Council District 7

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

Jason Bunch, Carfinders Auto Outlet, 85 Schillinger Road North, Mobile, AL, spoke on his own behalf, and stated that he is in agreement with holding the case over until the July 7, 2014 meeting.

A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to hold the matter over until the July 7, 2014 meeting, with revisions due by June 10<sup>th</sup> to address the following:

- 1) revise the site plan to depict full tree and landscaping compliance, or submit a revised narrative to include a tree planting and landscaping variance and payment of associated application fees; and notification labels and notification fees;
- 2) revise the site plan to depict the property line between the two separate lots;
- 3) revise the site plan to depict the number of parking spaces and delineate how the cars will be stored on the property; and
- 4) revise the site plan to depict wheel stops, bumper stops, or curbing for the proposed parking spaces.

The motion passed unanimously.

**#5895/5797/5726**

**(Case #ZON2014-00928)**

**New Hope Baptist Church**

1270 & 1272 Pecan Street, 608 Live Oak Street, 1261 & 1263 Persimmon Street

(Northeast corner of Pecan Street and Live Oak Street extending to the Southeast corner of Pecan Street and Persimmon Street).

**Tree Planting Variance to reduce the number of Frontage Heritage Trees required for a church in an R-2, Two-Family Residential District; the Zoning Ordinance requires a minimum of one frontage heritage tree per 30 linear feet of street frontage for a church in an R-2, Two-Family Residential District.**

Council District 2

The Chair announced the matter, advising it had been recommended for approval. He noted that no one was present to represent the application.

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Mr. Hoffman stated that the applicant had previously received approval both from the Board of Zoning Adjustment and the Planning Commission for their site, but they lost funding for their project in the meantime. They had to postpone their project until they could re-establish their funding. They are now ready to move forward, but all of their approvals have expired. Therefore, they are having to go back before both the Board and the Planning Commission. Nothing has changed between the previous application and recommendation for approval and the application that is before the Board now.

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. Guess, with second by Mr. Metcalfe, to holdover the matter until the July 7<sup>th</sup> meeting due to no one being present to represent the applicant.

The motion passed unanimously.

**#5896/4741/4717/4648/4063**

**(Case #ZON2014-01008)**

**Ben Cummings, Cummings Architecture**

3280 Dauphin Street

(East I-65 Service Road North at the Northeast corner of Dauphin Street and Interstate 65)

**Setback Variance to enclose an existing covered drive-thru teller structure within a side-street yard setback, 17' ± from the property line, in a B-3, Commercial Business District; the Zoning Ordinance requires a 20' side-street yard setback in a 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.

Ben Cummings, Cummings Architecture, One Houston Street, Mobile, AL, spoke on his own behalf and made the following points in support of the matter:

- He is in agreement with the staff recommendations;
- They have done a preliminary parking calculation, and they will exceed the minimum parking requirements;
- They will submit a revised site plan as requested.

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 above referenced matter.

The Board found the following findings of fact for Approval:

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- 1) approving the variance request will not be contrary to the public interest in that a previous variance allowed the existing canopy within 13' of the side-street side-yard property line;
- 2) special conditions, such as the interior layout of the structure which makes the proposed location of the new MRI optimal, exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) the spirit of the chapter shall not be observed and substantial justice shall be done in that no further encroachment into the side-street side-yard setback will be occurring, and additional landscaped area will be provided.

The approval is subject to the following conditions:

- 1) submittal of a revised site plan providing the total proposed square footage for the site as well as the number of parking spaces; and
- 2) full compliance with all municipal codes and ordinances.

The motion passed unanimously.

**OTHER BUSINESS:**

With there being no further business before the Board, the meeting was adjourned at 2:35 PM.

**APPROVED:** January 5, 2015

  
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Chairman of the Board

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