

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF MAY 5, 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:

Acting Chairman Coleman 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 all five members present to pass a variance. He then called the meeting to order.

HOLDOVERS:

#5885

(ZON2014-00473)

Clyde Covington

1361 Forest Cove Drive

(West side of Forest Cove Drive, at the West terminus of St. Charles Court)

Side and Rear Yard Setback Variances to allow the construction of a 10' by 12' utility shed setback 2' from the side and rear property lines in an R-1, Single-Family Residential District; the Zoning Ordinance requires 8' side and rear yard setbacks in an R-1, Single-Family Residential District.

Council District 7

The Chair announced the matter, advising it had been recommended for denial. The applicant was not present to address the Board regarding the subject.

Mr. Hoffman stated that the staff had not heard anything from Mr. Covington regarding the application.

Mr. George Davis stated that the last communication he had with the applicant was that anything placed in the easement would not be approved by City Engineering.

After discussion, Mr. Milling made a motion to deny the above referenced matter, with second by Mr. Metcalfe.

The Board determined the following findings of fact for denial:

- 1) Approving the variance will be contrary to the public interest in that it is contrary to Engineering Department requirements which state the structure cannot be placed atop the existing 42" storm drain pipe or within its existing 25' wide drainage easement and the approval of the variance will be contrary to Section 64-3.C.1.e. of the Zoning Ordinance regarding setbacks within an R-1, Single-Family Residential zoning district;
- 2) Although special conditions, such as a hardship to the property due to the lot's shape do exist, a literal enforcement of the provisions of the chapter will not appear to result in an unnecessary hardship; 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 near-by 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 and have not encroached within any easement.

The motion passed unanimously.

#5889

(ZON2014-00514)

Steven Damrich (M. Don Williams, Agent)

154 Texas Street

(North side of Texas Street, 100'± East of South Conception Street)

Site Variance to allow a continuous 52' wide property and alley curb cut; a 10' wide single lane driveway access to a rear storage yard; nose-in/back-out parking spaces with access and maneuvering within the public right-of-way; and no landscaping or tree planting compliance in an I-1, Light Industry District; the Zoning Ordinance requires site entrances and exits located so as to minimize traffic congestion; rear yard access drives to be two-way, 24' wide; all parking access and maneuvering to be on-site; and full compliance with the landscaping and tree planting requirements in an I-1, Light Industry District.

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.

Mr. Don Williams, M. Don Williams Development, P. O. Box 16305, Mobile, AL 36616, spoke on behalf of the applicant and made the following points in support of the matter:

- The case was heldover from the previous meeting due to staff request for the parking lot to be reconfigured to come closer to compliance;
- The parking has been re-oriented 90 degrees so that the traffic is not backing out into Texas Street;
- They are providing sidewalks and traditional 18' wide curb-cuts;
- They are allowing handicap accessible parking with a ramp reconfigured to run up alongside the building;
- In reconfiguring the parking lot and access ramp, they located additional trees and were able to come closer into landscaping compliance;
- They are in a flood zone, but their modular building is elevated 30" ;
- They did arrange for employees to pick up paychecks off-site, so the concerns about a lot of employees coming to the site on Friday afternoon have been eliminated.

Mr. Coleman 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.

Mr. Metcalfe made a motion for approval, subject to the staff recommendations. The motion was seconded by Mr. Davis.

The following findings of fact for approval were noted:

- 1) Approving the revised variance requests will not be contrary to the public interest due to the limited site not allowing extensive development, use or traffic generation;
- 2) Special conditions exist, including the limited property size and dimensions, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and

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- 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 due to the fact that the applicant will improve the site and provide residential buffering, will have paved parking, will comply with the overall tree and landscape requirements, and will have a limited scope of operations on the site.

The Site Variance was approved subject to the following conditions:

- 1) Compliance with all applicable codes and ordinances, including those regulations relating to development within a flood zone;
- 2) Approval limited to the revised site plan and issuance of paychecks off-site; and
- 3) Obtaining of land disturbance, right-of-way and building related permits as appropriate.

The motion passed unanimously.

#5890/5740/5721

(ZON2014-00515)

Patricia D. Jackson

2667 Government Boulevard

(East side of Government Boulevard, 335'± South of Kreitner Street)

Use and Parking Ratio Variances to amend a previously approved variance to allow automotive sales with 2 employee parking spaces for a 1,588 square-foot office building on a lot split-zoned between B-2, Neighborhood Business District, and R-1, Single-Family Residential District; the Zoning Ordinance does not allow automotive sales in either B-2, Neighborhood Business Districts, or R-1, Single-Family Residential Districts, and 6 employee parking spaces are required for a 1,588 square-foot office building.

Council District 5

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.

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

- He has submitted a revised site plan that he thinks will clear up some of the issues that caused the staff to recommend denial;
- The site already has a variance for B-3 use, they are just trying to get car sales allowed as well;
- There has already been a precedence set for B-3 use in this area;
- There is a lounge on one side of the site, and a used tire store on the other side of the site. Those are the only two B-2 uses on the block. South of the lounge, there are two car lots. There are car lots all the way down to Toomeys.

Mr. Metcalfe asked what kind of fencing was on the site and whether or not it would remain.

Mr. Rowe stated that it was about a 6' chain link fence with barbed wire at the top, and the fencing would remain.

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Mr. Hoffman stated that if it did have barbed wire, it may have to be removed if not allowed in a B-2 district. He further stated that he counted seven parking spaces for display in the front on the revised site plan.

Mr. Rowe agreed that the new plan did show seven parking spaces for display.

Mr. Coleman 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.

Mr. Milling made a motion for approval, subject to conditions. The motion was seconded by Mr. Metcalfe.

The following findings of fact for approval were noted:

- 1) approving the variance requests will not be contrary to the public interest in that the site is currently occupied by an automotive repair shop, which is a B-3 Community Business District use;
- 2) special conditions such as the site is unusable as a conforming, B-2, Neighborhood Business District use, 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 surrounding neighborhood by granting the variance because of the precedent set in the granting of variances for B-3, Community Business District uses on the subject property, as well as an adjacent property.

The conditions of approval are as follows:

- 1) revision of the site plan to illustrate the privacy fence at the rear of the property;
- 2) if asphalt in the right-of-way is to remain, placement of no parking signs in the area, to be coordinated and approved by ALDOT;
- 3) placement of a note on the site plan that the site is limited to 7 cars for sale on display at a time; and
- 4) submittal of two (2) revised site plans to the Urban Development Department prior the issuance of any permits or business licenses.

The motion passed unanimously.

#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

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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.

Romona Johnson, 5242 Cedar Lane, Eight Mile, AL, spoke on behalf of the applicant. She was aware of the recommendation and the required revisions and agreed.

Mr. Coleman 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. Metcalfe, with second by Mr. Davis, to hold the matter over until the June 3rd meeting with revisions due by May 12th, to address the following requirement:

- 1) Submission of a complete list of current property owners and labels for all properties within 300 feet, with new postage and label fees.

The motion passed unanimously.

#5893

(Case #ZON2014-00787)

Kennedy Investments, LLC

1554 & 1558 West I-65 Service Road South

(West side of I-65 Service Road South, 0.26 ± miles South of Cottage Hill Road)

Parking Ratio Variance to allow 31 parking spaces for a 17,720 square foot office/warehouse building with 10,780 ± square foot office/ showroom and 3 warehouse employees in a B-3, Commercial Business District; the Zoning Ordinance requires 37 compliant parking spaces for a 10,780 ± square foot office/ showroom with 3 warehouse employees in a B-3, Commercial Business District.

Council District 4

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.

Tony Spencer, Frank Dagley and Associates, Inc., 717 Executive Park Drive, Mobile, AL, spoke on behalf of the applicant and made the following points in support of the matter:

- This is the location of the old OSI building which has been vacant for some time;
- His client is proposing to renovate the interior and will purchase the lot to the north to provide additional parking;
- The property was developed many years ago, so there is no way they can fully comply with the parking requirements;
- They will have 31 parking spaces where 37 are required;
- They are in agreement with staff recommendations.

Mr. Coleman 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.

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A motion was made by Mr. Metcalfe, with second by Mr. Davis, to approve the above-referenced matter.

The following findings of fact for approval were noted:

- 1) Based on the fact that the site will become substantially more compliant with the parking ratio requirements, the variance will not be contrary to the public interest;
- 2) These special conditions (previous over-development of the site and the size constraints of the area proposed for parking expansion) 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 there will be substantially more parking spaces provided for the site than previously.

The conditions of approval are as follows:

- 1) combining the two existing lots into one lot via a Subdivision, to be completed prior to the issuance of a Certificate of Occupancy for the parking lot expansion;
- 2) the installation of a city-standard sidewalk or the granting of a Sidewalk Waiver;
- 3) retaining of the existing frontage trees;
- 4) obtaining all necessary permits associated with the demolition of the existing building on the North lot and obtaining all necessary permits for Land Disturbance to construct the proposed parking lot;
- 5) subject to the Traffic Engineering comments: (The applicant should contact ALDOT to discuss any requirements they may have regarding access for this site.); and
- 6) full compliance with all other municipal codes and ordinances.

The motion passed unanimously.

OTHER BUSINESS:

Doug Anderson discussed the court results of the cell tower appeal by stating that the federal court granted the City's motion to dismiss AT&T's appeal of both the Planning Commission's and the Board of Zoning Adjustment's decisions. The court granted the motion because the wrong entity filed the appeal.

With there being no further business before the Board, the meeting was adjourned at 2:26 p.m.

APPROVED: December 1, 2014



Chairman of the Board

/lw