

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF SEPTEMBER 8, 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
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 all five members present to pass a variance. He then called the meeting to order at 2:00 PM.

EXTENSIONS:

#5877/5790/4193

(Case #ZON2014-00045)

Joe Walvis (M. Don Williams, Agent)

4114 Moffett Road

(Northeast corner of Moffett Road and Wolf Ridge Road).

Surfacing and Tree Planting Variances to allow a storage yard to have gravel surfacing with frontage trees placed beyond the 25' front building setback in a B-3, Community Business District; the Zoning Ordinance requires storage yards to have concrete or asphalt surfacing and all frontage trees to be placed in the 25' front building setback in B-3, Community Business Districts.

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.

Don Williams, M. Don Williams Development, P. O. Box 16305, Mobile, AL 36616, spoke on his own behalf and stated that they were in agreement with the staff recommendations.

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 Vernon Coleman, with second by Mr. Metcalfe, to approve the extension request for six months

The motion passed unanimously

PUBLIC HEARINGS:

#5911

(Case #ZON2014-01500)

Thompson Engineering

120 Mobile Infirmary Boulevard

(East side of Mobile Infirmary Boulevard, 411'± North of Old Shell Road).

Site Variance to allow an 8' high wall to be constructed on the front property line in a B-2, Neighborhood Business District (rezoning pending); the Zoning Ordinance requires a minimum 25' front setback for structures higher than 3' tall in a B-2, Neighborhood Business District.

Council District 2

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.

Christopher Baker, Thompson Engineering, 2790 Cottage Hill Road, Suite 190, Mobile, AL 36606, spoke on his own behalf and made the following points in support of the matter:

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- His client, James B. Donaghey, Inc., has a three lot subdivision adjacent to this property.
- Mr. Donaghey purchased the subject lot and wishes to extend the existing wall;
- Their intent is to park service vehicles on this site, and without extending the wall, the vehicles would be parked right next to the Mobile Infirmary property;
- There is a driveway at the northwest corner, and there would be controlled access to Mobile Infirmary Boulevard;
- The fence on the southern end will be removed.

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

Mr. Hoffman stated that Planning Approval and a PUD through the Planning Commission would be more appropriate for this site than a variance.

Mr. Anderson stated that there was a previous three lot subdivision on the adjacent property owned by Mr. Donaghey, and now they are seeking a variance and they would be seeking another in the future. The entire Donaghey site should be considered by the Planning Commission as a whole rather than piece-mealing each parcel.

Mr. Metcalfe suggested that a one-lot subdivision may be the better to include all the Donaghey parcels.

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 applicant's request to hold the case over six months so that the applicant could make the appropriate Planned Unit Development and Subdivision applications to the Planning Commission.

The motion passed unanimously.

#5912

(Case #ZON2014-01590)

Scott Electric Sign Company

3118 Government Boulevard

(North side of Government Boulevard at the North terminus of Satchel Paige Drive).

Sign Variance to allow a total of six (6) wall signs and one (1) freestanding sign for a single business site in a B-3, Community Business District; the Zoning Ordinance allows a single business to have a total of three (3) signs, with only one being a freestanding sign in a B-3, Community 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.

James Joiner, Scott Electric Sign Company, 5636 Clifford Circle, Birmingham, AL, spoke on behalf of Autonation. He stated that he had been asked to represent this matter at the hearing, and he had requested some additional information that he had not yet received. He asked for a holdover to the following meeting to allow him to obtain the additional information he needed.

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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. Metcalfe, with second by Mr. Davis, approve the applicant's request to hold the case over until the October 6, 2014 meeting, noting that any additional information should be submitted to staff by September 16, 2014.

The motion passed unanimously.

#5913/5828

(Case #ZON2014-01691)

Tom Myers (M. Don Williams, Agent)

4306 The Cedars

(North side of The Cedars, 315'± West of Dilston Lane).

Rear Yard Setback and Site Coverage Variances to allow a structure within 5' of the rear property line and a total site coverage of 37% in R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum rear yard setback of 8', and a maximum site coverage of 35% in an R-1, Single-Family Residential District.

Council District 7

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

- A variance had previously been approved for this site;
- The owner had tried unsuccessfully to sell the property, and therefore, he would like to have the variance re-approved.

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. Davis, to approve the above referenced matter.

The Rear Yard Setback and Site Coverage Variances for the proposed structure are recommended for approval, subject to the following conditions:

- 1) the provision of gutters and downspouts on the rear of the proposed structure; and
- 2) full compliance with all other municipal coded and ordinances.

The motion passed unanimously.

#5914/5087

(Case #ZON2014-01699)

Wrico Signs Inc.

6347-A Airport Boulevard

(South side of Airport Boulevard, 500'± East of Hillcrest Road).

Sign Variance to allow 2 wall signs for a tenant located on a group business site in a B-3, Community Business District; the Zoning Ordinance allows 1 wall sign per tenant located on a group business site 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.

Wade Wright, Wrico Signs, Inc., 3345 Halls Mill Road, Mobile, AL, spoke on behalf of T-Mobile and made the following points in support of the matter:

- They are requesting a sign on the side of the building that faces Airport Boulevard;
- There is a multi-tenant sign on the street, and a sign on the front of the building;
- Piccadilly Drive is not a public street, but it is used for access to the shopping center.

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. Guess, with second by Mr. Metcalfe, to deny the above referenced matter.

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 Section 64-11.1. of the Zoning Ordinance pertaining to providing for uniform standards for on-premise signs within the city;
- 2) In that special conditions such as limited visibility, multiple street frontages or unusual site constraints do not 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 not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because most of the near-by businesses appear to be in compliance with the Sign Regulation Provisions of the Zoning Ordinance and no other similar Sign Variances have been granted within the immediate area, and the approval of this variance request could set a precedent for similar multi-tenant sites in the future.

The motion passed unanimously.

#5915/5272/3366/3139

(Case #ZON2014-01700)

Gary D.E. Cowles

1757 Government Street

(Southwest corner of Government Street and Weinacker Avenue).

Use, Access/Maneuvering, and Tree Planting Variances to allow a banquet venue with parking nose-in/back-out within a right-of-way, with no additional tree plantings in a B-1, Buffer Business District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for the operation of a banquet venue with all parking and maneuvering spaces on private property, and full compliance with tree planting requirements.

Council District 2

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.

Gary Cowles, Cowles, Murphy, Glover and Associates, 457 St. Michael Street, Mobile, AL, spoke on his own behalf and made the following points in support of the matter:

- This site was the location off the old Pillars Restaurant that operated under a variance from 1976-2009;
- The building caught fire, and instead of demolishing it, the owner restored it;
- The owner tried for two and a half years to sell the property as a residence without success;
- The best and highest use for this property is commercial;
- A prospective lessee wants to use the site as a party rental facility;
- They would be required to have 59 parking spaces if allowed to use the site as B-3;
- The canopy oaks and live oaks along Government Street do not lend well to more tree planting;
- William J. Cutts, the property owner, has rehabilitated several properties in Midtown, including his own home and is asking for a variance to put this property back in use.

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 of the matter.

Mr. Cartledge Blackwell, Mobile Historic Development Commission, 205 Government Street, Mobile, AL, spoke in support of the matter and stated that the owner is trying to revitalize this area, and this is the third project he's undertaken.

The Chair asked in there was anyone present 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 matter.

The Board determined the following findings of fact for approval:

- 1) Approving the variance requests will not be contrary to the public interest due to the fact the site has been used commercially and the proposed business could be considered a continuation of a similar commercial use;
- 2) Special conditions exist, including the current site conditions, 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 will be required to provide residential buffering, will have paved and compliant parking, will comply with the overall tree and landscape requirements, and will have a similar type use as previously used on this property.

The approval is subject to the following conditions:

- 1) Removal of the existing cable from the alley right-of-way;
- 2) Compliance with all applicable codes and ordinances;
- 3) Approval limited to the revised site plan; and
- 4) Obtaining of land disturbance, right-of-way, tree removal and building related permits as appropriate.

The motion passed unanimously.

#5916/5109

(Case #ZON2014-01701)

Modern Signs LLC

3347 Halls Mill Road

(East side of Halls Mill Service Road (private road), 230'± South of Halls Mill Road).

Sign Variance to allow a digital sign 180'± from the nearest residentially zoned property in a B-3, Community Business District; the Zoning Ordinance does not allow digital signs within 300' of the nearest residentially zoned property in a B-3, Community 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.

Mr. Hoffman announced that the next door neighbor, Wrico Signs, Inc., was not notified in the public hearing notice mailout, and the case should be required to be heldover until the next meeting for proper legal notification.

Mr. Anderson stated that he had spoken to Wade Wright, owner of Wrico Signs, and he was not notified at the address of his office building, nor at the adjacent residential lot that he also owns. Mr. Wright was in the audience today and would agree to waive notice.

The Chair stated that Mr. Wright should be notified for due diligence.

Mr. Hoffman stated that the applicant would only be required to provide labels for the property owners who were not initially notified and that the labels would be due next week.

Ricky Armstrong, Modern Signs, LLC, P. O. Box 81174, Mobile, AL, 36689, spoke on his own behalf as agent for K. Berger Properties. He stated that Mr. Berger has a flooring business and a contracting business and occupies all of the suites in the building.

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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. Davis, to hold the case over until the October 6, 2014 meeting due to insufficient notification of adjacent property owners. The applicant must provide labels, postage and notification fees for all property owners not originally notified of the case to staff by September 16, 2014.

The motion passed unanimously.

#5917

(Case ZON2014-01705)

Doria Durham, Agent

104 St. Francis Street

(Northwest corner of St. Francis Street and North Royal Street)

Site Variance to allow the installation of wireless communications equipment on the rooftop of a building, that will be visible from the street, on a T-6 site within the Downtown Development District; the Downtown Development District requires that all rooftop equipment not be visible from the street on a T-6 site.

Council District 2

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

Doria Durham, 12 Chandon Court, Mandeville, LA, spoke on behalf of Verizon Wireless and made the following points in support of the matter:

- An agreement was made to install an 8' cell tower on the building at 104 St. Joseph Street;
- The passing of the Downtown Development District zoning changes requires that they apply for a variance for what was previously approved;
- The equipment would be set back 4' from the edge of the building;
- When buildings are of dissimilar height, signals can be blocked so it is tedious to get the equipment precisely placed.

The Chair asked how tall the building is.

Mr. Anderson stated that it is nine floors; the building in reference is the old Merchants National Bank Building.

Mr. Hoffman stated that the Downtown Development district regulations prohibit any equipment being seen from the street.

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.

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

The Board determined the following findings of fact for Approval:

- 1) approving the variance will not be contrary to the public interest based upon the fact that the technological requirements of telecommunications equipment requires a specific relationship to a service area;
- 2) the placement of the telecommunications equipment on this site, or any other nearby site in a compliant manner, will result in a failure to achieve service requirements, resulting in an unnecessary hardship; and
- 3) that 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 by specifically identifying criteria that can be applied to similar technological requirements.

The approval is subject to the following conditions:

- 1) painting or otherwise masking the antennae if possible, while maintaining the applicant's desired signal service level; and
- 2) full compliance with all other municipal codes and ordinances.

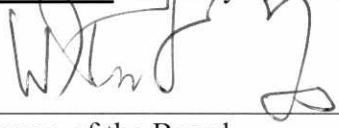
The motion passed unanimously.

OTHER BUSINESS:

- A revised Board of Zoning Adjustment Schedule was presented for approval. A motion was made by Mr. Guess, with second by Mr. Coleman, to approve the revised schedule. The motion passed unanimously.
- A revised site plan for # 5893, (Case #ZON2014-00787), Kennedy Investments, LLC, approved at the May 5, 2014 meeting was presented for approval. Tony Spencer of Frank Dagley and Associates, Inc. was present to answer any questions from the Board. A motion was made by Mr. Metcalfe, with second by Mr. Coleman, to approve the revised site plan. The motion carried unanimously.

With there being no further business before the Board, the meeting was adjourned at 2:44 PM.

APPROVED: January 5, 2015



Chairman of the Board

/lw