

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF SEPTEMBER 9, 2013 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, AUDITORIUM**

**MEMBERS PRESENT**

William Guess, Chairman  
Vernon Coleman, Vice Chairman  
Lewis Golden  
Adam Metcalfe  
Jeremy Milling

**MEMBERS ABSENT**

Russell Reilly  
Sanford Davis

**STAFF PRESENT**

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

**OTHERS PRESENT**

George Davis, City Engineering  
Butch Ladner, Traffic Engineering  
Gerard McCants, Urban Forestry

The notation *motion carried unanimously* indicates a consensus, with the Chairman voting.

**ROLL CALL**

✓	William Guess, Chairman
✓	Vernon Coleman, Vice-Chairman
✗	Sanford Davis
✓	Lewis Golden
✓	Adam Metcalfe
✓	Jeremy B. Milling
✗	Russell Reilly

**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 called the meeting to order at 2:00 p.m.

**HOLDOVERS:** NONE

**EXTENSIONS:** NONE

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**PUBLIC HEARINGS:**

**#5844**

**(Case #ZON2013-01961)**

**Brad Crain**

**311 Wacker Lane North**

(West side Wacker Lane North, 190'± North of Stein Street)

**Front Yard Setback Variance to allow a structure within 18.5' of the front property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum front yard setback of 25' for structures 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 that the applicant should address the Board regarding the subject at that time.

Richard L. Patrick, PLS, 3315 Fairfield Road, Mobile, AL, spoke on behalf of the applicant and stated that they were in agreement with all recommendations.

Hearing no further discussion or opposition, a motion was made by Mr. Coleman with second by Mr. Metcalfe to approve the above referenced request.

The motion carried unanimously.

**#5855**

**(Case #ZON2013-01964)**

**Pala Verde-CWB, LLC**

(East side of Demetropolis Road, 1,100'± South of Government Boulevard)

**Surfacing Variance to allow an aggregate parking surface for an RV/Boat Storage facility in a B-3, Community Business District; the Zoning Ordinance requires concrete, asphaltic concrete, asphalt, or alternative parking surfaces for all parking areas in a B-3, Community Business District.**

Council District 4

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

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

- The property is located near the corner of Highway 90 and Demetropolis Road;
- There aren't many other ways to use this property other than as proposed by the applicant, namely a boat and RV storage yard;
- They want a variance to be able to use an aggregate surface rather than concrete or asphalt;
- The owners have found that the aggregate works well for this use, and they have a similar facility on Jeff Hamilton Road located next to a residence with no complaints or problems with dust/debris;

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- They don't want to use red clay under asphalt as the site is located right next to Spring Creek. They don't want to have any runoff as is typical with red clay;
- There was a proposed change to the ordinance up for approval at the last Planning Commission meeting to allow aggregate surfaces in I-1 and I-2 sites and to allow aggregate surfaces, with Planning Approval, for B-3 sites which is what this property is zoned.

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

Mr. Metcalfe asked what type of fence would be around the property and whether it would comply with landscaping requirements.

Mr. Dagley replied that he wasn't sure about the fence, possibly some sort of security fence, but they would put up a privacy fence if required. They will add two trees to make it landscape compliant per the staff recommendations.

Mr. Milling asked if the drive aisle was asphalt and how long ago was the Jeff Hamilton project completed.

Mr. Metcalfe stated that the site plan showed that there is concrete at the apron and then asphalt for the drive aisle.

Mr. Dagley confirmed that that was correct. He further stated that the Jeff Hamilton project was completed three years ago, and it has been well-maintained. The owners have six to eight storage sites in Mobile, and they do delineate the spaces with stops or possibly cross-ties.

The Chair commented that the staff comments show a requirement for a ROW permit and asked whether or not this was in a flood-plain.

Mr. Dagley stated that the permit was no problem, and they will complete studies to verify the flood plain and will handle the filling/excavation appropriately as required by Mr. Davis.

Hearing no further discussion or opposition, a motion was made by Mr. Metcalfe, with second by Mr. Coleman, to approve the above referenced request.

The motion carried unanimously.

**#5856/5366**

**(Case #ZON2013-01965)**

**3400 Government LLP**

**1790 West I-65 Service Road South**

(West side of West I-65 Service Road South, 270'± North of Government Boulevard)

**Surfacing Variance to allow aggregate parking surface for parking/vehicle storage in a B-3, Community Business District; the Zoning Ordinance requires concrete, asphaltic concrete, asphalt, or alternative parking surfaces for all parking areas in a B-3, Community Business District.**

Council District 4

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

The following people spoke in support of the application:

- 1) Nathan Friedlander, 126 Government Street, Mobile, AL, spoke on behalf of the applicant, and
- 2) Khalid Elkhatabi, 1790 West I-65 Service Road, Mobile, AL, spoke on his own behalf.

They made the following points in support of the application:

- They are seeking a variance to allow parking on an aggregate surface;
- Mr. Elkhatabi has been in business operating a used car dealership at the subject property for two years;
- The site has had similar types of businesses with aggregate surfaces as far back as 1975;
- There is at least one other aggregate surface property in close proximity to this site;
- There was a prior application for a variance filed in 2006 to allow parking for storage buildings on the subject site, case # ZON2006-01476, in connection with the application for Barry Lowe, which was approved;
- Mr. Elkhatabi and the owners of this property believed that, due to the prior variance, they could continue to use the site and park on the aggregate surface. They entered into a lease based on that understanding, but in November of 2012, a city code compliance officer came out and issued three separate citations to Mr. Elkhatabi. One citation was for streamers, one for flying the United States flag, and one for parking on aggregate surfaces;
- Mr. Friedlander represents Mr. Elkhatabi in Circuit Court and Environmental Court regarding these violations, and there was an agreement with the City Prosecutor that Mr. Friedlander would seek a variance on his client's behalf. If the variance is approved it will render the prosecutions moot;
- They submitted photographs of a number of businesses up and down the I-65 Service Road corridor showing parking on both aggregate surfaces and grass;
- The staff stated concern over possible fluid leakage on the site. Mr. Elkhatabi's vehicles are well-maintained. There will be no maintenance or mechanical servicing on the site; they will only wash and display vehicles on the lot.

Hearing no further discussion or opposition, a motion was made by Mr. Coleman, with second by Mr. Metcalfe, to approve the above referenced request, subject to the following conditions:

- 1) No parking of automobiles or inventory on the required front landscape area; and**
- 2) Parking and building storage area limited to the existing aggregate area.**

The motion carried unanimously.

#5857

(Case #ZON2013-01966)

Trent Hall

**3755 Government Boulevard**

(South side of Government Boulevard, 700'± and West of the Southern terminus of Lakeside Drive)

**Sign Variance to allow a digital wall sign 250'± from an R-1, Single-Family Residential District in a B-3, Community Business District; the Zoning Ordinance requires all digital signage to be a minimum of 300' from an R-1, Single-Family Residential District in a B-3, Community Business District.**

Council District 4

The Chair announced the matter, advising it had been recommended for denial due to the recent City Council requirement regarding the 300' minimum setbacks. He advised that the applicant should address the Board regarding the subject at that time.

The following people spoke in favor of the application:

- 1) Stephen Clements, 301 St. Louis Street, Mobile, AL, spoke on behalf of the applicant; and,
- 2) Wade Wright, Wrico Signs, 3345 Halls Mill Road, Mobile, AL, also spoke on behalf of the applicant.

They made the following points in support of the application:

- They feel like the sign should be grandfathered in because the plans were approved April 24, 2013, and the message board shows clearly on the plans;
- The real issue is due to the new code;
- The variance works here because the neighboring R-1 is the golf course at Heron Lakes;
- All the rest of the properties in the area are commercial, not residential;
- The sign placement is on the north façade of the building which is the farthest point from the R-1 area;
- Any light cast down from the sign is in the direction of the cars on Government Boulevard
- The Harley Davison down the street has the same type of sign, and Hall's needs to stay competitive as the Honda dealer;
- Per letter from the manufacturer supplied with the permit application, the maximum brightness is 5000 nits and the signs can't flash per the new ordinance;
- The new permanent Hall's Motorsports sign will be programmed to come on at dark, and if it will help the Board be amenable to approval, they will have the message board go off at the same time so there is no moving signage at night.

The Chairman stated that his hesitation was that there is a new ordinance and already someone asking for less. However, under the circumstances, the sign does face a primarily commercial area and the applicant is willing to modify the sign function to limit exposure for the property owners to the north.

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Hearing no further discussion or opposition, a motion was made by Mr. Milling, with second by Mr. Metcalfe, to approve the above referenced request, subject to the following condition:

- 1) Message board to be programmed to display a static (non-moving) message at night.**

The motion carried unanimously.

**#5858**

**(Case #ZON2013-01967)**

**James L. O'Brien**

**4167 Burma Road**

(South side of Burma Road, at the Southern terminus of Carriage Drive)

**Side Yard Setback Variance to allow the addition of a garage within 3.2'± of the side yard property line in an R-1, Single Family Residential District; the Zoning Ordinance requires a minimum 8' side yard setback 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 that the applicant should address the Board regarding the subject at that time.

The following people spoke in support of the application:

- 1) Brett Orrell, Polysurveying of Mobile, Inc., 5588 Jackson Road, Mobile, AL, spoke on behalf of the applicant; and,
- 2) James O'Brien, 4167 Burma Road, Mobile, AL, spoke on his own behalf.

They made the following points in support of the matter:

- There was an application to resubdivide in 2011 in order to get some clearance around an existing carport that was put in by the previous owner;
- They wanted to eventually put in a garage where the carport was previously;
- The proposed garage is a 24' wide standard double-garage;
- The previous carport was 21' wide and sat on the property line;
- They need relief to be able to position the garage on the property within limitations imposed by pool and concreted area causing there not to be enough room for rear or side access;
- They are asking for a variance to be able to put a front-entry garage where the carport previously existed.

The Chairman asked how long the residence had been there.

Mr. O'Brien stated that the house was built in the 1950's.

Mr. Metcalfe asked if the applicant had talked to the affected neighbor, and if the neighbor was aware that it will be larger than the previous carport.

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Mr. Orrell replied that Mr. O'Brien had talked to the neighbor, and the neighbor had been agreeable to the subdivision and is also agreeable to the new garage as it is and improvement over the carport that was there as the carport was falling in.

Hearing no further discussion or opposition, a motion was made by Mr. Coleman, with second by Mr. Metcalfe, to approve the above referenced request, subject to the following conditions:

- 1) Provision of gutters and downspouts on the side of the structure closest to the property line; and**
- 2) Compliance with all Building and Fire code requirements.**

The motion carried unanimously.

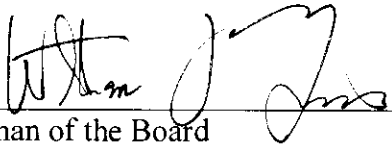
**OTHER BUSINESS:**

- Approval of Board of Zoning Adjustment 2013-2014 Schedule

After review of the proposed 2013-2014 schedule, a motion was made by Mr. Metcalfe with second by Mr. Coleman, to approve the schedule.

There being no further business, the meeting was adjourned at 2:42 p.m.

**APPROVED:** June 2, 2014

  
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Chairman of the Board

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