

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF OCTOBER 6, 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.

HOLDOVERS:

#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.

The following people spoke on behalf of the matter:

- 1) James Joiner, Scott Electric Sign Company, 273 Azalea Road South, Mobile, AL, spoke on his own behalf, and
- 2) Luke Troyer, Site Enhancement Services, 6001 Nimtz Parkway, South Bend, IN, spoke on behalf of Autonation.

They made the following points in support of the application:

- The business at this location is Roundtree Chrysler Dodge, and they have multiple brand names housed under one roof and therefore need additional signage;
- Mr. Troyer brought revised artwork for the Board to consider;
- Autonation is essentially a multi-tenant building with Chrysler, Dodge, Jeep and Ram being tenants within that dealership;
- They need the individual identification of each brand on their building so as not to jeopardize their success at this location and identify them to passing motorists;
- They will reduce the number of signs requested, removing the Mopar and Service signs;
- If the Board will consider the Chrysler brand as one sign, the Jeep brand as one sign, and the Dodge/Ram brand as one sign, they would only be requesting one additional wall sign with the variance;
- Other car dealerships in the area have more signage than allowed by the ordinance due to the nature of the car dealerships, and they are asking for the same consideration.

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. Coleman, to approve the above referenced matter.

A revised proposal was submitted at the meeting by the applicant, requesting 3 wall signs and 1 pylon sign. Based upon the revised proposed, the Board made the following findings of fact for Approval:

- 1) The variance will not be contrary to the public interest in that the applicant's requested reduction in the amount of signage, submitted at the meeting, is more in keeping with previous Board approvals given to adjacent auto dealer signage requests;
- 2) special conditions, such as multiple automotive brands being sold in one location, 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 area by granting the variance as it would provide the same treatment to this auto dealer that has been provided to adjacent auto dealers during previously approved sign variance requests.

The Approval is subject to the following conditions:

- 1) limited to three wall signs, to be grouped as presented at the meeting;
- 2) limited to one pylon sign;
- 3) no additional advertising signage; and
- 4) full compliance with all other municipal codes and ordinances.

#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.

Ricky Armstrong, Modern Signs, LLC, 1009 Pinewood Drive West, Mobile, AL, spoke on his own behalf and made the following points in support of the matter:

- He received the staff recommendations for approval and is in agreement with the conditions;;
- He was told that he would need to contact Alabama DOT for approval;
- ALDOT gave him a letter stating that they do not govern on-premise signs.

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. Milling, with second by Mr. Metcalfe, to approve the above referenced matter.

Staff recommends to the Board the following findings of facts for approval:

- 1) Based on the fact that the site is isolated from residentially-used properties, the variance will not be contrary to the public interest;**
- 2) These special conditions (adjacent residentially zoned property is developed commercially and extended eave projection would mask night-time glow) 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 the sign will only be directly visible along the Interstate 65 frontage and the night-time glow will be obscured by the extended eave overhang.**

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) message board to be programmed to display a static (non-moving) message at night; and**
- 2) full compliance with all other municipal codes and ordinances.**

EXTENSIONS:

#5882

(Case #ZON2014-00450)

Cowart Hospitality Services, LLC

12 North Joachim Street

(East side of North Joachim Street, 130'± North of Dauphin Street, extending to the Southwest corner of North Conception Street and St. Francis Street)

Access and Maneuvering Variances to allow the access and maneuvering area for a dumpster to be within the public right-of-way and not on-site in a B-4, General Business District; the Zoning Ordinance requires the access and maneuvering for dumpsters to be on-site in a B-4, General Business 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.

Mike Cowart, Cowart Hospitality Services, 12 North Joachim Street, Mobile, AL, spoke on his own behalf and requested that the variance approval be extended for six months.

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, while making the applicant aware that future extensions are unlikely.

PUBLIC HEARINGS:

#5918

(Case #ZON2014-01837)

William M. Moore Jr. & Anna B. Moore

200 Lanier Avenue

(Northeast corner of Lanier Avenue and Ashland Place Avenue).

Side Street Side Yard Setback Variance to allow the construction of a 6' high privacy fence setback 1' from the side street property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 20' side street yard setback for a 6' high privacy fence in an R-1, Single-Family Residential 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.

The following people spoke in support of the matter:

- 1) William M. Moore, Jr., 200 Lanier Avenue, Mobile, AL, spoke on his own behalf, and
- 2) Mary Hunter Turner Slaton, 2301 Ashland Place Avenue East, Mobile, AL, spoke on her own behalf.

They made the following points in support of the request:

- They requested ending a 6' tall privacy fence 1' from the side street property line which normally has a 20' setback;
- Staff recommended approval of 15', so he is there requesting the additional 4';
- There are a large number of similar structures in the neighborhood constructed with and without permits, and it is not out of character for the area;
- He provided photographs and a list of other similar structures approved by right or by variance in the area along with a letter of support from a neighbor.

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. Golden, to approve the above referenced matter.

The Board made the following findings of fact for approval:

- 1) **Approving the variance request will not be contrary to the public interest due to the fact that the site is within a historic district and there have been other variance approvals in the vicinity of this site;**

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- 2) Special conditions appear to exist, including the site's location within an historic district, 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.

The approval is subject to the following conditions:

- 1) Coordinate with Traffic Engineering for line of sight issues; and
- 2) Obtainment of a fence permit.

#5919/5866

(Case #ZON2014-01878)

New Cingular Wireless PCS, LLC

6311 Cottage Hill Road

(220'+ South of Cottage Hill Road, 780'+ East of Hillcrest Road).

Height, Setback, Residential Buffer, and Tree Planting Variances to allow a 150' monopole telecommunications tower setback 37.5' from a lease parcel line and 42.75' from residential property, with no tree planting provided, in a B-2, Neighborhood Business District; the Zoning Ordinance limits structures to a 45' height, with telecommunications towers to be setback the height of the tower (150') from a lease parcel line, and with a residential buffer separation of 200' or 150% of the height of the tower, whichever is greater (225'), and with one tree per every 30' of lease parcel perimeter, in a B-2, Neighborhood Business District.
Council District 6

The Chair announced the matter and advised the applicant should address the Board regarding the subject at that time.

The following people spoke in support of the matter:

- 1) Mr. Andy Rotenstrich, AT&T, 420 20th Street North, Birmingham, AL, spoke on behalf of the applicant and the property owner,
 - 2) Mr. Sean Van Matre, Engineer for AT&T responsible for putting the network together in this area, 4436 Dandy Lane, Pace, FL, spoke on behalf of the applicant,
 - 3) David Akridge, Director of IT with Mobile County Public School Systems, 7400 Bradford Court, Mobile, AL, spoke on his own behalf, and
 - 4) GiGi Armbrecht, AT&T, 3512 Scenic Drive, Mobile, AL, spoke on behalf of the applicant.
- They are in agreement with the staff recommendations and will meet all the conditions;
 - They now having Planning Commission Approval;
 - Some of the sites that were shown on previous proposed propagation maps have now been turned on so it has confirmed their engineering;
 - Mr. Rotenstrich and Mr. Van Matre discussed the reasons why this particular site was chosen based on their propagation maps and stated that the hardship is that the science of the radio cell signal dictates where they must put the tower to have the coverage to provide good service to customers;
 - The configuration and elevation of the property causes hardships that requires that they seek a variance;

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- They have offered to move the tower slightly to the north from their previous application so that it is further away from the neighborhood;
- They are now 184.5 feet from the property line of the nearest property owner in Muir Woods;
- When they began their search in this area, they knew that there was a tower located near Publix, but it was located significantly outside their search ring and didn't meet all their criteria;
- They searched for sites that were already zoned for commercial use;
- This site is at the center of the propagation gap area, and it is most favorable as there is less interference from other sites when located in the center in the search ring;
- They did look at the Mobile Christian School site, but C-Spire reserves the top two locations for themselves on their towers, and AT&T needs to have their equipment placed higher than this site would allow;
- Most modern cell networks use co-channel signaling, so all the signals are transmitted on the same frequencies, and they can resolve any interference issues by having minimal overlap with other sites;
- There is also a trade-off in these overlap areas in that there is some degradation of signal quality;
- South Alabama Regional Planning Commission's data shows that there are 3480 households inside the proposed footprint of this new tower;
- These households are not necessarily all AT&T customers, but this tower will have room on it for equipment from three additional carriers, so there will be less need for other cell companies to construct additional towers in this area;
- The impacted area includes people of all income groups;
- The preferred way for low to moderate income people to access the internet now is not the PC or laptop, but smartphones and tablets;
- Many school children go home with devices that require internet activity so wireless broadband is important for the quality of instruction the children receive;
- Poor cell coverage is a public safety concern as roughly 70% of 911 calls come from cell phones, and by the end of 2014, only 19% of new households will even have a landline. Therefore, the statistic regarding the number of emergency calls made from cell phones is likely to increase;
- According to the Southeast Regional Planning Commission, 26,000 cars pass through intersection of Cottage Hill and Hillcrest every 24 hours, and this intersection is infamous for dropped calls;
- The proposed tower will reduce call problems not only for AT&T customers but also for anyone who happens to be speaking to an AT&T customer who passes this area;
- Earlier this year, a Muir Woods resident commented that he has lousy cell service at his house and that he'd rather live with it than look at a cell tower. We cannot allow arguments based on aesthetics to determine the community's place in the future, nor can we allow 52 households decide what 3400 households will have;
- Burns Middle School and Dodge Elementary began a project 18 months ago where the children are bringing their own devices from home to use at school, and there is a good network at the school, but many of the children come from low-income households that cannot afford cable or internet service;
- Mobile County Public Schools has been working with some engineers for six to eight months on ways to get internet access for schoolchildren;

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- The school system has been working with AT&T to get wifi hotspots so that they can access the internet through cell signals – they have several hundred of those devices now and are working on filters so that children don't have access to things on the internet that aren't appropriate;
- They will be piloting this project all over the county, and they have pinpointed this area and would like to see the cell tower move forward.

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.

The following people spoke in opposition to the matter:

- 1) Don Williams, Don Williams Development, P. O. Box 16305, Mobile, AL 36616, spoke on behalf of his brother-in-law who lives in Muir Woods;
- 2) William Finnegan, 6317 Muir Woods Drive South, Mobile, AL, spoke on his own behalf;
- 3) Emile Noel, III, Mandeville, LA, spoke of behalf of the Noel Family Cemetery;
- 4) Bess Rich, 625 Cumberland Road East, Mobile, AL, spoke on behalf of the residents of Muir Woods as their City Council representative;
- 5) Cynthia Hyde, 6304 Muir Woods Drive, Mobile, AL, spoke on her own behalf, and
- 6) Desiree Pearsall, 6328 Muir Woods Drive North, Mobile, AL, spoke on her own behalf.

They made the following points against approval of the request:

- The residents of Muir Woods are supportive of smarter children, better cell service, progress, 911 safety, and the Federal Communications Commission;
- Mr. Anderson noted at the Planning Commission meeting that the opponents needed to focus on technology, radio frequency, service, and opportunities for the public to have better access to wireless communications;
- This project failed to be approved by the Board of Zoning Adjustment last January, and there has been no change of substance to this current submission;
- Since the last time this request was before the Board nine months ago, AT&T has had time to turn on towers, analyze frequencies, create simulations and coverage maps, and marketing strategies;
- The residents of Muir Woods have not been given the same information as what was provided to the Planning Commission and the Board Members – Mr. Williams paid \$31.00 30 minutes ago to get copies of documents that were submitted to the Planning Commission;
- The residents of Muir Woods request a one month holdover so that they have the opportunity to hire their own radio frequency engineer to analyze the information provided by AT&T;
- Mr. Finnegan presented maps and demonstrated nine alternative locations that present opportunities for AT&T to co-locate on other towers without having to build a new tower;
- The Noel Family Cemetery is immediately to the north of the proposed cell tower site, and although the tower wouldn't be physically on the cemetery property, it would visually be on site;
- If a hurricane were to knock the tower down, it could damage the cemetery;

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- In 1916, the Diocese of Mobile requested of Mr. Noel's great-uncle that the land be donated to the church for creation of a church and cemetery;
- In 2008, the Noel Cemetery was listed on the Alabama Historic Cemeteries Register;
- Per LeeAnn Wofford, Head of Historic Preservation for the State of Alabama, the FCC is required by Section 106 of the National Historic Preservation Act of 1966 to take into account the effect of their projects on historic and archaeological resources that are listed on the National Register of Historic Places;
- Ms. Wofford's office reviews all Section 106 projects in Alabama and to her knowledge, her office has not yet reviewed the cell tower project to determine if the Noel Cemetery would be eligible for the National Historic Register and then what effects the project would have on the property;
- The historical value of the cemetery has been determined at the state level, and they need to be given time to make that determination at the national level;
- The residents and businesses in the affected area have been put in the position to have to hire someone to read the technical information submitted by AT&T;
- No one on the City's staff is certified to read this technical information, yet the City accepts the information provided by AT&T without verifying the report;
- Therefore, a hardship has been imposed on the residents that should be the responsibility of AT&T, and the residents and business owners should be given time to hire someone qualified to interpret the report;
- The tower will be out of place and completely out of character with the surrounding properties;
- The Planning Commission decision isn't final as the applicant stated as the residents who are aggrieved have 15 days to file an appeal if they choose to exercise that right;
- Residents have NOT had nine months to prepare as they thought it was over, and they just got certified letters nine days ago about the case coming before the Planning Commission again, so they are asking for time to re-organize;
- They question why AT&T would be pushing forward when they haven't gotten historical approval yet.

Mr. Rotenstreich stated that they do have to address the historical effects on the cemetery; the State Historical Preservation Office must give approval per FCC guidelines, or they cannot proceed. He wasn't certain what the status of the historical review process was, but they often seek planning approval concurrent with historical approval. The same information is included in this application as before and the residents didn't ask for time to hire a consultant last time, nor did they ask for that on Thursday at the Planning Commission meeting. AT&T would much rather co-locate than build a new tower, and they would rather not have neighbors upset with them. The type of tower that is at the Mobile Christian site requires that C-Spire take up two rad centers at the top of the tower because they cannot get all their antennas in one spot, and therefore there isn't room to co-locate at the required height. If they build a flagpole type structure, the FCC requires that it be lit from the bottom up, and residents are generally not happy with that option.

B. J. Lyon, 718 Downtowner Boulevard, Mobile, AL, spoke on behalf of the residents of Muir Woods and made the following points in opposition to the matter:

- He reviewed the application and questioned why the property owner didn't sign the application;

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- AT&T signed the application, and they do not own the property – they are the lessee;
- When they came before the Board in January, they had a lease that was from August of 2013 that gave them a six month right to put in the pole and a six month extension. Their lease is now expired, so the owner should have filed the application not the lessee;
- If approved, the Board would be granting a request to an applicant who was not qualified to make the application.

Mr. Hoffman stated that Mr. Rotenstreich did submit paperwork updating the owner's approval for the file, and the lease was in the file for the previous application.

Mr. Milling stated that when he voted on this matter the last time, he didn't feel like AT&T had completely vetted other possible sites. He does feel that they have demonstrated a hardship with this application. He asked Mrs. Rich whether the residents would accept the determination of the person they hire to review the data if he or she confirms AT&T's data, provided the Board gives them time to hire a consultant.

Mrs. Rich stated that the residents and the businesses in the area want the opportunity to have an unbiased person who is qualified to analyze the data review it, and if that person confirms AT&T's data, the neighborhood would have greater trust in the system.

Mr. Guess stated that both sides have given compelling points of view, and he requested that the Board consider holding the request over for 30 days. He felt like there would be more information in on both sides that would allow the Board to be more comfortable with the decision they make.

Mr. Rotenstreich asked that if the Board does holdover for 30 days, would they please require that AT&T be provided with any new information a week in advance of the meeting so that they can be prepared? He stated that AT&T was required to provide that same courtesy on the last holdover.

Mr. Guess deferred to Mr. Anderson.

Mr. Anderson stated that requiring both sides to provide information to the other is within the Board's discretion, but they would just have to work out the logistics of getting the information to one another.

Mr. Guess asked Mr. Van Matre how long it would typically take to review such information.

Mr. Van Matre stated that it should be able to be reviewed in two or three days once all the information has been provided.

A motion was made by Mr. Metcalfe, with second by Mr. Davis, to **hold the request over to the November 3rd meeting, to allow the Muir Woods neighborhood to hire a radio frequency engineer to review AT & T's site evaluation findings. The Board noted that any information that is to be provided for their review should be submitted to staff during the week prior to the meeting.**

#5920/5811

(Case #ZON2014-01912)

Pace Burt

951 Government Street

(West side of Marine Street, extending from Government Street to Church Street)

Bulk Variance to amend a previously approved Bulk Variance to allow 48 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District; the Zoning Ordinance allows 36 dwelling units on a 59,933 square foot site in a B-1, Buffer Business 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.

Tiffany Paulson, 219 Philema Road, Suite 109, Albany, GA, spoke on behalf of the applicant and made the following points in support of the matter:

- Mr. Burt will be in town Friday to meet with the homeowners association to discuss how they can join forces and discuss the outcome of today's meeting;
- Mr. Burt and his partner have developed over three million square feet of historic buildings in the last seven years;
- They are asking for a variance to allow 48 dwelling units where the B-1 zoning district allows for a maximum of 36 dwelling units;
- Most of the dwelling units will be one-bedroom units sized about 1000 square feet with rent at \$1000 per month, but there will be some two-bedroom units averaging 2400-2500 square feet with rent at \$1800 per month;
- They would like to have a mixed-use space with commercial space on the ground floor, and residential units will be located on the second through eighth floors;
- The property will be fenced with two- way access off Marine Street and one-way in and out access on Government Street;
- They are in agreement with staff recommendations.

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. Coleman, to approve the above referenced matter.

Staff recommends to the Board 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 Board of Zoning Adjustment previously approved a similar request to allow more dwelling units than are currently requested;**
- 2) **the structure on the site is large enough that to prevent an increased number of dwelling units, may result 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**

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approving the request to allow more dwelling units than allowed by right, but fewer dwelling units than previously approved.

Based on the preceding, the bulk variance request to allow 48 dwelling units is recommended for approval, subject to the following conditions:

- 1) provision of a dumpster screen in compliance with Section 64-4.D.9. of the Zoning Ordinance;**
- 2) provision of a residential buffer for properties to the Southwest of the site in compliance with Section 64-4.D.1. of the Zoning Ordinance;**
- 3) provision of bumper stops or curbing for all parking spaces around the perimeter of the parking area in compliance with Section 64-4.A.3.b. of the Zoning Ordinance;**
- 4) compliance with parking lot lighting requirements in Section 64- 6.A.8 of the Zoning Ordinance for all new lighting;**
- 5) submission of two (2) revised site plans prior to submitting for any permits;**
- 6) completion of the Subdivision process prior to submitting for any permits; and**
- 7) full compliance with all other municipal codes and ordinances.**

#5921

(Case #ZON2014-01925)

James P. Meador Jr.

3520 Stillwood Lane West

(North side of Stillwood Lane West, 149'± East of Avalon Street).

Rear and Side Yard Setback Variances to allow an existing structure within 3' of the side property line and within 4.7 feet within the rear property line and allow an existing carport within 0.5' of side property line in a 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 7

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

James P. Meador, Jr., 3520 Stillwood Lane West, Mobile, AL, spoke on his own behalf and made the following points in support of the matter:

- He is asking for a playhouse for his daughter to be allowed to remain in the setbacks as well as allowing an existing carport to remain;
- The structures were built without permits;
- There are no downspouts on the carports, but he will gladly install them.

Mr. Hoffman stated that the staff reviewed the site plan with the engineer, and the maximum site coverage for R-1 districts is 35 percent, and the way the site coverage was calculated, it is over the maximum by just one or two percent at 36 or 37 percent currently. The pitch of the carport roof is from front to back so there is no discharge of water onto neighboring property. Staff has prepared proposed conditions for approval for the Board to review.

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 deny the request for the shed to remain in its current location and to approve for the existing carport to remain on the property.

The Board made the following findings of fact for denial regarding the existing shed to remain in its current location:

- 1) Granting the variance will be contrary to the public interest in that 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 may exist, such as a hardship to the property due to the lot's size, a literal enforcement of the provisions of the chapter will not appear to result in an unnecessary hardship as there appears to be other appropriate locations to relocate the shed within the rear yard; 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 for the unpermitted shed since there may be other areas on the property which may be appropriate for the shed that would meet all setback requirements in upholding the spirit of Section 64-3.C.1.e. of the Zoning Ordinance.**

The Board made the following finds of fact for approval for the existing carport to remain on the property:

- 1) Approving the variance request will not be contrary to the public interest due to the fact there have been other setback variance approvals in the vicinity of this site;**
- 2) Special conditions exist, including the current site layout, 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 due to the fact that the applicant will be required to provide downspouts and/or other needed equipment to help prevent unnecessary water flow onto the adjacent property, as necessary.**

The approval is subject to the following conditions:

- 1) Obtainment of proper building-related permits for the existing carport and shed (playhouse), as appropriate;**
- 2) The provision of downspouts and/or other equipment needed to help divert water flow from the adjacent property; and**
- 3) Relocation of the existing shed (playhouse) in the rear of the property to a more appropriate location that meets all setbacks.**

#5922/5751
(Case #ZON2014-01926)
Victor Signs

1854 Airport Boulevard

(Southwest corner of Airport Boulevard and Old Government Street).

Sign Variance to allow a digital sign located less than 300'± from the nearest residentially zoned property in a B-2, Neighborhood Business District; the Zoning Ordinance requires all digital signs to be a minimum of 300' from residentially zoned property in 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.

Orin Robinson, Victor Sign Company, 5000 Whitworth Road, Mobile, AL, spoke on his own behalf and made the following points in support of the request:

- They are requesting approval to incorporate a digital message center onto a new pylon sign;
- There is an existing pylon sign on the Airport Boulevard side of the site that will be replaced by the proposed sign;
- All of the residentially zoned properties are on the Old Government Street side so the residents wouldn't actually be able to see the sign;
- The sign will also be below the roofline of the building and the way it will be positioned is such that if residents could see the sign, they would be looking at the end of it;
- This sign will benefit the Subway and other tenants at this site as well as spruce up the Loop area;
- Subway states that when they add one of these message centers, they see a 35 – 70 percent increase in sales;
- The sign will be 2' by 10' and will be 18' tall.

Mr. Golden and Mr. Coleman voiced concerns that the sign was above the height of the adjacent commercial property, and therefore, the sign would be visible from the bedrooms of the residential property.

Mr. Hoffman stated that the bottom of the sign would be above the overhang of the building next door.

Mr. Robinson stated that they can lower the sign or put the message board lower so that it wouldn't be visible from the residences. They didn't want any ill will from the neighbors as they are potential clients for the businesses at this site.

Mr. John Bell, Optec Display, Panama City, FL, spoke on behalf of the applicant and stated that it may be being overlooked that the sign will be turned towards Airport so the residents would only see the end of the sign. He further stated that even though the adjacent building is not as tall as the sign, no light will obtrude from the end of the sign visible from the residence. The light will glow in the opposite direction from the residence, and it will be turned down at night per the regulation.

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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.

Jeri Riis, 1012 Bristol Court, Mobile, AL, spoke on her own behalf and on behalf of her brothers and sisters who own the apartments nearby. They are concerned with the light pollution, the tenants being able to sleep, and also that it would be below the roofline. She thinks that making it lower than the roof and dimming it at night would be a good solution.

After discussion, the Chair opened the floor for a motion.

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

The Board noted the following findings of fact for Denial:

- 1) **approving the variance will be contrary to the public interest in that the residential buffer requirement for digital signs is intended to reduce the intrusion of light emitted from digital signs onto nearby residential properties;**
- 2) **special conditions do not exist and there are no hardships which exist that make the placement of digital signage necessary; 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 each tenant will have space on the proposed illuminated pylon sign, eliminating the need for a digital sign that might also prove distracting to driver in Airport Boulevard.**

#5923

(Case #ZON2014-01928)

Felder Holdings, LLC

220 Furr Street

(Southeast corner of Furr Street and Old Carline Street).

Use, Access/Maneuvering, Parking, Tree Planting, and Landscape Variances to allow a 12,400 square foot fitness center, office and warehouse, 28 parking spaces with nose-in/back-out within a right-of-way and reduced tree plantings and landscape area in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District, for the operation of a fitness center, office and warehouse, with 36 parking spaces for a 12,400 square foot building, all maneuvering area on private property and full compliance with tree plantings and landscaping requirements.

Council District 1

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.

John Vallas, 2308 Ashland Place Avenue, Mobile, AL, spoke on behalf of the applicant and made the following points in support of the matter:

- Staff recommended the request for holdover to allow them to make several revisions to the site plan;

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- After receiving the staff recommendations, they went ahead and made the necessary revisions;
- He provided a revised site layout with a compliant number of parking spaces to the Board that had been provided to staff on Friday;
- Staff now supports approval of their request with conditions, and they are in agreement with the staff recommendations.

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, to approve the above referenced matter.

The Board made the following findings of fact for approval of the Use, Access/Maneuvering, and Tree and Landscape variance requests:

- 1) **Approving the variance requests will not appear to be contrary to the public interest due to the fact that the building and the majority of the site has been used commercially since the 1960's;**
- 2) **Special conditions exist, including the current site's configuration, 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 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 provide trees and landscaping, and will have similar type uses as previously used on this property.**

The approval is subject to the following conditions:

- 1) **Revision of the site plan to depict the square footage of the building (1st & 2nd floor);**
- 2) **Placement of a note on the site plan stating that garbage collection will be via curb-side pickup;**
- 3) **Placement of a note on the site plan stating that the proposed privacy fencing is not to exceed 3' in height within the 25' minimum building setback Old Carline Street;**
- 4) **Placement of a note on the revised site plan stating: *(All buildings and facilities, including parking facilities, shall be designed and constructed to be accessible in accordance with the 2009 IBC and 2003 ICC/ANSI A117.1, as applicable. All accessible parking spaces must be a minimum of 9 feet in width, as required by the Zoning Ordinance.)*;**
- 5) **Revision of the site layout to reflect accessibility comments, if necessary;**
- 6) **Submission of a revised site plan to the Planning Division of the Urban Development Department, prior to any request for land disturbance;**
- 7) **Approval limited to the revised site plan, to include all proposed parking areas, trees and landscaping;**
- 8) **Obtaining of land disturbance, right-of-way, tree removal and building-related permits, as appropriate; and**
- 9) **Compliance with all applicable codes and ordinances.**

#5924

(Case #ZON2014-01931)

Joey Pittman

166 South Street

(West side of South Street, 125'± North of Clearmont Street).

Side Yard Setback Variance to allow a structure to within 5' of the side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard setback of 8' in an R-1, Single-Family Residential 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.

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

- The Pittmans have a very large live oak tree;
- The Pittmans and the staff were concerned with the impact to the tree;
- They are in agreement with staff recommendations.

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. 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 there exists a large live oak tree that prevents the new structure from meeting side yard setback requirements without damaging the tree roots;**
- 2) **locating the structure to meet side yard setback requirements may result in damage to the existing live oak tree roots, thus 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 approving the request for reduced side yard setback for a new accessory structure to avoid the root system of the existing live oak tree.**

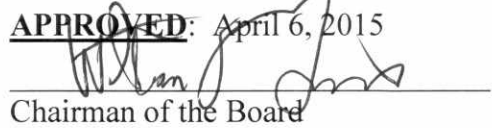
The Side Yard Setback Variance for the proposed structure is recommended for approval, subject to the following conditions:

- 1) **obtain demolition permits for the two existing structures on the site;**
- 2) **the provision of gutters and downspouts on the side of the proposed structure; and**
- 3) **full compliance with all other municipal coded and ordinances.**

OTHER BUSINESS:

With there being no further business before the Board, the meeting was adjourned at 4:28 PM.

APPROVED: April 6, 2015


Chairman of the Board

/lw