

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF FEBRUARY 4, 2002 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI PURPOSE ROOM

MEMBERS PRESENT

John Peebles, Chairman
Ronald E. Blake, Vice Chairman
Richard Collier
Clarence Cook
Reid Cummings
Edley Hubbard
P.H. Lewis

MEMBERS ABSENT

STAFF PRESENT

Richard Olsen, Planner II
Tim Ashley, Planner I
Shayla Jones, Planner I
Jennifer Henley, Secretary II
Rose Murphy, Secretary II

OTHERS PRESENT

John Lawler, Assistant City Attorney
Dave Roberts, Traffic Engineering

Chairman Peebles noted the number of members present constituted a quorum and called the meeting to order.

The notation *motion carried unanimously* indicates a consensus, with the exception of the Chairman who does not participate in voting unless otherwise noted.

APPROVAL OF MINUTES:

A motion was made by Mr. Collier and seconded by Mr. Cummings to approve the minutes of the meeting of January 7, 2002, after identifying the seconder of the motion in Case Number 50887. The motion carried unanimously.

HOLDOVER:

#5086

(Case #ZON2001-02721)

Katt's Christian Day Care & Child Development Center (Church of God Pentecostal, Owners)

2700 First Avenue

(Northwest corner of First Avenue and Main Street)

Use Variance to allow the addition of a commercial (private) Day Care to an existing church in an R-1, Single-Family Residential District; Day Cares are allowed in B-1, Buffer Business Districts with Planning Approval and by right in B-2, Neighborhood Business Districts.

The plan illustrates the existing structure and parking lot.

Rev. Jacob Davis of the Church of God Pentecostal represented the applicant and stated the case was heldover from the January 7, 2002, meeting to allow the applicant time to submit a revised site plan to include the playground area.

Mr. Ashley indicated that the revised site plan was received and included the playground area.

There was no one present in opposition.

In discussion, the Board was reminded that information presented at the previous meeting indicated that the proposed day care would be leasing the Church facilities, including the

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playground area, and there was discussion about whether or not it would constitute a commercial day care requiring licensing by the State of Alabama.

The acquisition date of the parcel to be used for the proposed playground was questioned. The staff indicated that it appeared the area was not part of the parcel in a Planning Approval in the late 1980's and may have been illegally deeded to the Church in 2001. Further discussion centered on the need for childcare services in the area.

A motion was made by Mr. Hubbard and seconded by Rev. Lewis to approve the request for a Use Variance to allow the addition of a commercial (private) Day Care to an existing church in an R-1, Single-Family Residential District subject to the following condition:

1. the property being established as a legal lot of record.

The motion carried unanimously.

#5091

(Case #ZON2001-02756)

Douglas B. Kearley

808 and 850 Dauphin Street

(North side of Dauphin Street, 198' ± West of North Bayou Street)

Parking Surface, Parking Ratio and Access Variances to allow an aggregate surface, seven parking spaces and a 9 foot wide driveway; asphalt, concrete or an alternative paving surface, with eight parking spaces and a 24 foot wide driveway is required for two way access in a B-4, General Business District.

The plan illustrates the existing structures along with the proposed gravel parking and drive.

Mr. Douglas Kearley, Architect, stated that as the applicant he was requesting Parking Surface, Parking Ratio and Access Variances. He felt there was not sufficient space for a 24' wide driveway and the required number of parking spaces.

Mr. Peebles asked if Mr. Kearley had reviewed the staff recommendations.

Mr. Kearley said he had, and he concurred.

Mr. Harry Teaford, 611 Dauphin Street, said he had an office at 7 N. Bayou Street and was happy to see the proposed improvement to the subject property. He expressed concern about access to an alleyway to Dauphin Street.

Mr. Olsen stated that the alley did not appear on any Land Use maps. They felt Mr. Teaford was referring to an adjacent piece of property.

Mr. Teaford was satisfied and supported the application.

Mr. Devereaux Bemis, Director of the Mobile Historic Development Commission, stated that his office was in support of the proposed project because it was in keeping with the Downtown Redevelopment Plan for the area.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the request for Parking Surface, Parking Ratio and Access Variances to allow an aggregate surface, seven parking spaces and a 9 foot wide driveway subject to the following conditions:

1. full compliance with the tree ordinance, with the location of the trees to be approved by the Urban Forester; and
2. provision of bumper stops to delineate parking stalls for proposed parking area.

The motion carried unanimously.

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#5092

(Case #ZON2002-00006)

Faulk & Foster o/b/o Louisiana Unwired

1509 Government Street

(South side of Government Street, 100' ± East of Tuttle Avenue, extending to the East side of Tuttle Avenue, 50' ± North of Church Street, and the North side of Church Street, 100' ± East of Tuttle Avenue)

Height, Setback and Buffer Separation Variances to allow a 41 foot flagpole rooftop Telecommunications Tower; the maximum height of an antenna located on an Antennae Support Structure is 20 feet, to allow 89 feet overall height, to allow a 10 foot setback from the property line and a buffer separation of 25' from residential property; a maximum height of 45' is allowed, a minimum setback of 41 feet is required from the property line and a minimum buffer separation of 200 feet is required from residentially zoned property in a B-2, Neighborhood Business District.

Mr. Rick Shaw of Faulk & Foster represented the applicant and stated that the Planning Commission denied a previous application for a site, one block east on Government Street. He stated they had surveyed other areas in the vicinity recommended by the staff and found that this site was the most conducive to their needs. The Height, Setback, and Buffer Separation Variances were needed to allow them the ability to locate three carriers on the tower. He stated that the staff recommended moving the tower to the northeast corner of the building, and they concurred with this as well as the remaining staff recommendations.

Ms. Wanda Cochran, Assistant City Attorney, attended on behalf of the Mobile Historic Development Commission and stated that she represented the City in all telecommunication matters. She went on to say that the Mobile Historic Development Commission was totally opposed to placing any towers on Government Street. There was a trend to downsize zoning on Government Street so that it might be restored as a main street, much like St. Charles Street in New Orleans. They also felt that approval of this application could set a precedent and lead to more requests for towers. Ms. Cochran said there was no legal reason that would require the Board to approve this request. She asked that if the Board approved a tower for this site that the impact be minimized.

Mr. Peebles asked how approval of this application would set a precedent if a tower company could only place a tower in an area they needed coverage.

Ms. Cochran said that other companies could feel they were discriminated against and claim selective enforcement. This could lead to costly appeals. She stated that this building was a "legacy of time," and although it might be conducive to use for a tower, she felt a 41' tower was not a stealth tower and could not be camouflaged.

Mr. Cummings raised the issue of discrimination against other companies seeking to have coverage in the same area.

Ms. Cochran did not feel the Telecommunications Act required the City to allow towers or antennae for all carriers in a particular area, if the same coverage could be accomplished by locating in another area.

Mr. Shaw took exception to Ms. Cochran's interpretation of the Telecommunications Act. He felt that if a gap in coverage could be proven and all other City regulations were complied with, it was appropriate to be granted approval. He stated that Louisiana Unwired had established a need for coverage in this area and had worked with the Urban Development Department staff and the Mobile Historic Development Commission since October to determine that the proposed site as satisfactory.

Mr. Devereaux Bemis, Director of Mobile Historic Development Commission, stated they had asked that the tower be moved from the proposed location to the center of the building, and the Land Use staff had recommended it be moved to the northeast corner. He said that Government Street was nominated as a Scenic By-way and his office was opposed to locating towers on Government Street.

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Mr. Olsen explained that the reason for the suggested move was to get it farther from the residential area and take advantage of the canopy of Oak Trees to camouflage the tower, and that the center of the building was not structurally designed to accommodate a tower.

Mr. Peebles asked if satisfactory coverage could be obtained with a lower height.

Mr. Shaw said that their engineers had indicated that a 21' tower would provide ample coverage for a single carrier.

Ms. Cochran stated that a 21' tower would be more desirable if approval was given. She asked if the State Historic Preservation Office had conducted a Section 106 review.

Mr. Shaw said that the review was in progress; it was a matter of course in all applications.

Mr. Collier asked if Louisiana Unwired would be willing to compromise on the height of the tower.

Mr. Shaw said a 20' tower would be satisfactory for their coverage, but would not allow for co-location. He said that although the coverage would not be as good, it would be acceptable.

Discussion centered on the height of a tower for this site, the placement of the tower on the building, aesthetics, and the need for a flag.

A motion was made by Mr. Blake and seconded by Mr. Hubbard to approve Height, Setback and Buffer Separation Variances to allow a 30 foot flagpole rooftop Telecommunications Tower; to allow 78 feet overall height; and to allow a 10 foot setback from the property line and a buffer separation of 25' from residential property subject to the following conditions:

1. reduce the height of the tower to 21 feet, if the approved 30 feet is insufficient to allow co-location;
2. the removal of the tower, at the owner's expense, if the tower ceases operation for two years or more;
3. that the design of the tower be limited to a flagpole, with all antennae located within the flagpole structure;
4. that a flag of proportionate size with the overall flagpole structure be located on the flagpole and maintained in good repair;
5. that the flagpole be relocated to the Northeast corner of the building;
6. the submission of documentation from an engineer stating that the building (antennae support structure) will adequately support the proposed flagpole and associated telecommunication structure;
7. full compliance with the landscaping and tree planting requirements of the Ordinance
8. the submission of all documentation and certifications as required by the Telecommunications Towers and Facilities Ordinance, prior to the issuance of any permits; and
9. the provision of a Certification of Insurance naming the City of Mobile as an additional insured.

The motion carried unanimously.

#5093

(Case #ZON2002-00007)

Jean Rumanos

1809 Riverview Avenue

(East side of Riverview Avenue, 125' ± North of Venetia Road)

Use Variance to allow a second dwelling unit on one lot; only one dwelling unit per lot is allowed in an R-1, Single-Family Residential District.

The plan illustrates the existing structures and asphalt drive.

Mr. Jerry Byrd of Byrd Surveying represented the applicant and stated that they were seeking a variance to allow an existing detached cottage to be renovated and used for visiting family members. It was originally built in the 1930's or 1940's for use by a maid, but had been used as

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storage since the 1960's. Mr. Byrd indicated that a small counter, with a bar sink and small refrigerator, would be installed. There would be no stove.

There was a brief discussion concerning what constitutes a separate living facility.

Mr. Byrd was asked if the applicant would be agreeable to a stipulation restricting use to immediate family members. Mr. Byrd said yes.

A motion was made by Mr. Blake and seconded by Mr. Cummings to approve the request for a Use Variance to allow a second dwelling unit on one lot subject to the following condition:

1. that a covenant be recorded in Probate Court restricting use of the second dwelling to visiting family members, to be approved by BOA Attorney prior to recording.

The motion carried unanimously.

#5094/4637/4412

(Case #ZON2002-00021)

Justine's Courtyard and Carriageway, Inc.

1306 Dauphin Street

(North side of Dauphin Street, 175' ± West of North Ann Street)

Use and Parking Surface Variances to allow the operation of a restaurant, continued use as a bed and breakfast and to allow a limestone parking surface in an R-1, Single-Family Residential District; a restaurant and bed breakfast are allowed by right in a B-2, Neighborhood Business District and parking surfaces must be asphalt, concrete or an alternative paving surface.

The plan illustrates the existing structures along with a proposed limestone parking area.

Mr. Jeremy Milling of Cummings & Whitespunner represented the applicant and stated they were seeking variances to allow the first floor of the subject house to be used as a restaurant; the second floor would continue to be used as a bed and breakfast; and to allow a limestone parking surface in lieu of asphalt. He said the residence was first used as a restaurant and boarding house, then in 1993 as a bed and breakfast. He went on to say that the Old Dauphin Way Historic Association submitted a letter of support for the project. He concurred with the staff recommendations.

Mr. Peebles asked when the facility was used as a boarding house and if it had lost its "grandfather" status.

Mr. Olsen said he thought it was a boarding house from the 1920's or 1930's until around 1979.

Ms. Marcia Conrad of 1413 Dauphin Street expressed concern about water runoff from a paved parking area; noise level due to the business operation; and odor, noise, and rodents associated with a dumpster. She stated that although the property was granted a variance for a bed and breakfast, it was never used for such purpose to her knowledge. She went on to say that she was concerned about a change in ownership in the future and what other type of business such a change might bring.

Mr. Ken Ohanlon of 52 S. Julia Street stated that this was a large neighborhood and that rush hour traffic used Dauphin Street as a "speed way." He expressed concern for the safety of children and pets with increased traffic. Mr. Ohanlon did not feel there was a hardship on the property that prevented its use as a residence. He said the neighbors were unsure why anyone would want to add a business to an already busy thoroughfare, which had a mercantile business, a church, and a school on three of the four corners. He felt the only hardship was economics.

Ms. Marie Daniels of 1316 Chamberlain Avenue stated that she owned a house at 166 New St. Francis Street. She expressed surprise that the Old Dauphin Way Association had submitted a letter of support for this project because she was a member of the Association and the subject was not discussed at any meeting she attended. Ms. Daniels also felt there was no hardship to prevent the property from being used as a residence. She also stated that it would have a negative impact on the surrounding area. She said the neighborhood had opposed every

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application for change in the last few years because they were opposed to commercial enterprise in the area.

Ms. Wanda Cochran, Assistant City Attorney, represented the Mobile Historic Development Commission and stated that the Commission did not reach a consensus and took no position on the application. She requested that the Board take whatever measures necessary to minimize the impact on the neighborhood if they approved the application.

Ms. Saralee Lambert of 1304 Dauphin Street, directly to the east of the subject property asked to read a letter of opposition into the record:

“To Whom It May Concern:

This letter is written to express my concerns regarding the rezoning of this property. My home residence is located at 1304 Dauphin Street (next door to 1306). I have resided there since 1980. Over the years I have invested countless hours of time and much money in improving my home.

Should the re-zoning of this property be approved, I am concerned as follows:

- 1) My residence would be located between 2 businesses.*
- 2) It is my opinion that my property value and that of my neighbors will be effected and make it undesirable as a residence for several reasons:*
 - (a) The restaurant and service of alcohol not only inside the premises, but also at courtyard events (which would most probably include bands) would increase the noise level directly next to my home and those surrounding the restaurant.*
 - (b) The courtyard and the location of the proposed kitchen are directly next to my home and my garage apartment bedroom. The proposed location of the kitchen was not used in previous years as a kitchen.*
 - (c) The smells and noise from the kitchen, bar and garbage Dumpster. The garbage dumpster noise from the opening & closing of it at all hours by the employees and from the garbage trucks driving in & out. I currently experience the noise from the trucks with their “back-up signals” and dump buckets from Cotton Capers and the apartments behind me. This is often early in the morning (5:30 am). There are also individuals who get into these dumpsters and throw cans onto the driveways then retrieve them. Due to the fact that these are not bars with the resultant number of cans a bar would generate, the noise level is minimal. However, it does awaken persons sleeping.*
 - (d) Garbage is a major concern. When I first moved into the neighborhood rats were a problem. We have worked very hard to eliminate them and have been successful.*
 - (e) The paving of the parking area will contribute to a basement-flooding problem and shifting that has already been experienced. I have taken steps to solve the basement and water flooding conditions. However, with added paving of the existent yard and courtyard with shift more water onto my property and cause erosion, basement flooding and create the potential for termite and wood damage.*
 - (f) I am concerned about the parking overflow moving into Cotton Caper’s parking area, thus increasing late night noise and noise in general (car doors slamming, loud voices, etc) on both sides of my home. In addition, the crossing of my property and on my lawn by individuals walking to their cars parked in Cotton Capers drive will make lawn maintenance more expensive.*
 - (g) Lighting and signage at the front and sides of the property. Bright lights and/or flashing signs would be a definite infringement on privacy and peace of the neighboring homes.*
 - (h) The potential for increase in people drinking and the problems that their behaviors will potentially cause as further invasions to the privacy and destruction of my property and that of other neighbors, including the Central Presbyterian Church and School of Math and Science.*
- 3) If the re-zoning is permitted, I respectfully request that the following guidelines be imposed:*

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- (a) *Operating Hours – Limited to 10 PM & to restrict late night/early morning noise.*
- (b) *Signage-Be limited to non-flashing lights (front & in courtyard) and in keeping with the historic nature of the Old Dauphinway District.*
- (c) *The Parking Surface is such that it does not contribute to the water levels and shifting of rainwater onto other properties. If this happens, Justine's would be held responsible.*
- (d) *Garbage removal is expeditious and at hours not to disturb the neighborhood. If rats become a problem, that Justine's be held responsible for getting rid of them. In addition, if bottles, cans and other debris are discarded on the surrounding properties that Justine's be responsible for the clean up.*
- (e) *That Justine's erect a fence/wall between their property and mine to provide me with privacy and noise restriction.*
- (f) *An investigation be held to determine how our insurance premiums will be effected as the Fire and theft potential may be increased due to the higher potential for fire and visibility of the properties on all sides.*
- (g) *Should the property be re-zoned for Justine's, it would be with specific guidelines as to the extent of their operations. And, if Justine's fails, that the property not be allowed to keep the B-2 Zoning. Thus, eliminating the potential for a less than desirable business to locate to this neighborhood.*

Thank you for your consideration, I remain

Sincerely,

s/s Saralee B. Lambert

Mr. Peebles explained that the applicant was not seeking a rezoning of the property, but a variance to operate a restaurant at the location.

Mr. Keddrick Raye McKinley of 52 N. Ann Street expressed concern that the traditionally family oriented area would be replaced by commercial. He referred to an attempt by a florist to move into the neighborhood. That move was defeated by virtue of ballots that were sent out to the neighbors. Mr. McKinley had conducted a survey of 15 people regarding this application with 12 opposed, 2 for, and 1 had no opinion. He felt approval of this application would have a negative impact on property values.

Mr. Felix Vereen of 1750 Dauphin Street represented the Old Dauphin Way Association and stated that they had not received any unfavorable comments, but had received a lot of favorable comments. He felt that having a restaurant in the area would have a positive influence on the neighborhood and would keep residents from going to West Mobile. He asked the application be approved.

Mr. Todd Mallette of 1312 Dauphin Street felt Ms. Conrad raised a lot of important concerns about run-off, noise, hours of operation, and type of business allowed if the restaurant closed. He asked the Board to attach restrictions to address these concerns if they chose to approve the application.

Mr. Milling stated that the parking area would be limestone, and that an engineer had been hired to address drainage issues. He went on to say that the staff recommendations contained a condition limiting garbage pickup hours; the restaurant would close at 10 p.m.; and that any signs would be subject to approval by the Mobile Historic Development Commission.

Mr. Peebles asked those in the audience in support of the application to signify by raising hands. There were approximately 16 in support. He then asked those opposed to raise hands and there were approximately 7 in opposition.

In discussion, the question was raised about whether the facility was ever operated as a bed and breakfast. It was noted that since a business license was obtained, the variance was still active.

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A motion was made by Mr. Collier and seconded by Mr. Cummings to approve the request for Use and Parking Surface Variances to allow the operation of a restaurant, continued use as a bed and breakfast and to allow a limestone parking surface in an R-1, Single-Family Residential District subject to the following conditions:

1. that the residential character of the primary structure be maintained;
2. that the proposed gravel parking area (including driveways) be curbed and contain bumper stops to delineate parking stalls;
3. the approval of the Old Dauphin Way Review Board for all external modifications;
4. the provision of a cul-de-sac at the end of the parking lot with the design to be approved by the Traffic Engineering Department;
5. the lighting facilities for the parking lot be arranged so they do not shine onto adjacent residential property or into traffic in accordance with Section IV.A.1 of the Zoning Ordinance;
6. the emptying of the dumpster to be between the hours of 8 a.m. to 8 p.m. during the weekdays;
7. the provision of an 8 foot privacy fence along the West, North, and East, property lines to comply with the Architectural Review Board and Traffic Engineering; and
8. that the hours of operation be limited to 11:00 a.m. to 10:00 p.m.

The motion carried unanimously.

#5095

(Case #ZON2002-00026)

Steve Ladas

3471 Spring Hill Avenue

(Southwest corner of Spring Hill Avenue and North Bishops Lane)

Side Street Setback Variance to allow a gas pump canopy to be located 10.9 feet from the side street property line; the minimum side street setback for a corner lot is 20 feet in a B-2, Neighborhood Business District.

The plan illustrates the existing structure and canopy, to be removed, and existing tank farm. Also show on the plan are the proposed structure and canopy.

Mr. Doug Anderson, 41 N. Beltline Highway, represented the applicant and stated the purpose of the application was to replace an existing service station with a service station/convenience store. The pumps could not be moved westward because of the gas tanks located in that area. He stated the applicant concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Cummings and seconded by Rev. Lewis to approve the request for a Side Street Setback Variance to allow a gas pump canopy to be located 10.9 feet from the side street property line subject to the following conditions:

1. provision of landscaping and tree planting requirements in compliance of Section IV.E.3.a. of the Zoning Ordinance;
2. full compliance with all municipal codes and ordinances; and
3. approval of the site by the Traffic Engineering Department.

The motion carried unanimously.

#5096

(Case #ZON2002-00027)

Ronald J. Wahl

3959 Higgins Road

(South side of Higgins Road, 178' ± East of Clemson Drive)

Administrative Appeal to determine if the use of additional equipment and activities are an expansion of a legal non-conforming use.

The plan illustrates the existing buildings and proposed trailer with hoists.

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Mr. Doug Anderson, 41 N. Beltline Highway, represented the applicant and stated that the applicant had been cited for adding to a legal non-conforming use. He felt they had not done any expansion. He said the equipment was used to teach crew boat skills needed by the students when they go to sea. Mr. Anderson said the school was licensed by the U.S. Coast Guard and approved by the Alabama State Board of Education, and had operated at the site for 20 years. He submitted handouts depicting the classes taught and certifications. He went on to say that 80% of the teaching took place in the original building. In the past two months they brought in two new pieces of equipment, a platform deck and a davit. He submitted photographs indicating the location of the new equipment. Mr. Anderson said the equipment was used on Monday and Tuesday nights for instructional exercises that were part of the regular curriculum; these were not additional classes. A lifeboat on the premises was donated and used as a display only. The lifeboat and davit were directly behind the classroom and were used to teach students how to raise and lower the lifeboat. Another handout was a copy of a 1985 brochure showing an 18-wheeler that contained a one-quarter scale model, and would come to the school and be used for the same purpose. The davit would be used once every 3 weeks for 4 hours. Mr. Anderson referred to a canopy over a picnic area used by the students for lunch. He said there was no increase in the number of students and no change to the curriculum. The only thing they had done was to weld the davit on the platform deck. There has been no industrial activity as suggested in the staff report. Mr. Anderson stated the staff report also mentioned non-conforming use and he felt this was all they were doing.

Mr. Collier stated that he was a graduate of the school 10 years ago and that none of this equipment was used or needed for Master Seaman and Captain's license. He felt this was an expansion of the use.

Mr. Anderson said there were no new uses.

Mr. Peebles asked how many students could be accommodated.

Mr. Anderson said 73 by Coast Guard regulations.

Mr. Peebles asked when the property was annexed.

Mr. Olsen said 1992. There was an annexation in 1990 that was overturned in court.

Mr. Ron Wahl, owner of the Sea School from St. Petersburg, Florida, stated that the equipment was used for the Able-bodied Seaman course. He went on to say that the classes were now able to accommodate 90 students, but the Coast Guard limited class size to 73.

Mr. Cummings asked how frequently the fire training took place.

Mr. Wahl said 1 time a week (Thursday) for 4 hours.

Ms. Beverly Isbell stated that she lived at 4762 Clemson Drive for 35 years. She said the building used for a classroom was first a store and later a tile company. She went on to say that within in the last 5 years the school had brought in a trailer for fire training. She felt this should not be in a single-family residential area. Ms. Isbell said the burning in the trailer emits an odor so unbearable that it was impossible to take small children and the elderly outside. She said the school was first on the Interstate and she understood that they were asked to leave that location. She expressed concern about traffic problems created by the bus, which transports students to the school, parking in the middle of the road. She said the school was constantly adding equipment. She felt this was not needed in a residential neighborhood. She requested denial.

Mr. Collier asked if Ms. Isbell's main concern was the burning.

Ms. Isbell said yes because it created a lot of smoke and the chemicals used to start the fires put out an awful odor.

Mr. Lawler asked when the trailer was placed on the property.

Ms. Isbell said 1998.

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Mr. Collier asked if the platform deck and davit were a problem.

Ms. Isbell said they were permanent structures and an eyesore.

Mr. Cummings asked how many times a day the bus created a traffic problem.

Ms. Isbell said 3 to 4 days a week in the afternoons.

Mr. Cummings asked if it had a "stop arm".

Ms. Isbell said no.

Ms. Melissa Cazalas of 4765 Clemson Drive submitted photographs depicting the subject site from the rear of her property. She stated that she did not feel comfortable in her back yard because people from the school would be staring. They had sought the intervention of a local TV station and the school constructed a fence. Ms. Cazalas said the smoke from the fire training was a problem for them as well.

Mr. Steve Cazalas of 4765 Clemson Drive stated that the owner of the Sea School approached him prior to this meeting and said he would make it hard on Mr. Cazalas about his woodshop if he spoke in opposition to this case. Mr. Cazalas said he went to the Sea School in 1990 and the equipment was not there at that time.

Mr. Cummings asked if the burning trailer was there at that time.

Mr. Cazalas said the trailer was used for show purposes. He went on to say that lifeboat training was conducted off-site at the YMCA when he attended the school.

Ms. Michelle Kountz of 4751 Clemson Drive said that when she moved into the area, it was a close-knit neighborhood. When she first experienced the fire training, she thought someone's house was on fire.

Ms. Cynthia Ward of 3931 Higgins Road stated that they had constructed a privacy fence, but that did not stop the students from looking over the fence. She expressed concern about the ash from the fire training as well as the terrible odor and the health hazards associated with it.

Mr. Bill Waller of 3924 Higgins Road presented aerial photographs taken in 1983. He indicated that the diesel crane used in the lifeboat exercise was extremely loud. He complained that the powder used to start the fires caused his son, who has allergies, to become ill. He stated that he was told by school officials that their supplier had mixed shipments, and they received a powder made of ammonia nitrate, which they would use until it was gone. Mr. Waller said he bought his property in 1982 and the subject facility was used by the Sheriff's Posse in 1983.

Mr. Collier asked what the metal building was used for.

Mr. Wahl said for fire training and storage of equipment.

Mr. Anderson stated that the Interstate site was a second location for the school and that the Higgins Road property was never abandoned. The reason they left the Interstate site was economics, the bills were too high. He said they understood the concerns of the neighbors, but the school would continue to operate. He reiterated that the activities at the site have not changed.

Ms. Ward stated that the fire training issue was a big concern to everyone in the area.

Mr. Peebles stated that the Board could not deal with the fire fighting issue. The residents would have to deal with the Fire Department and the Health Department on that issue.

Mr. Lawler noted that the current use of the property appeared to be expanding the non-conforming use compared to the aerial photographs.

Mr. Cummings asked if the current curriculum had changed.

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Mr. Wahl said no.

Mr. Cummings asked if there was just new equipment.

Mr. Wahl said yes.

In discussion, Mr. Lawler noted that everything must be contained within the premises for a non-conforming use; no facilities could be added. A 1997 aerial photograph did not show the equipment and he felt there was obvious expansion. He said the trailer was not on the premises before the annexation and they could only operate on the original footprint. They have added to it and therefore should request a variance or a rezoning.

There was a brief discussion on the definition of non-conforming use.

Mr. Lawler stated that in his opinion this was an expansion and in violation of the Zoning Ordinance.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to deny the Administrative Appeal.

The motion carried unanimously.

OTHER BUSINESS:

#4941

Charles V. Taylor

3352 Dauphin Island Parkway

(Southwest corner of Dauphin Island Parkway and Bryan Avenue).

Request for a 6-month extension of previous approval.

Mr. Charles Taylor, applicant, stated that he was involved in an accident and was not able to meet the conditions of the previous approval. He requested a six-months extension.

A motion was made by Mr. Blake and seconded by Mr. Cummings to approve the request for a six-month extension of a previous approval.

The motion carried unanimously.

Election of Officers

Mr. Olsen asked that the election of officers be delayed until the March 4, 2002, meeting because the staff had been notified of impending changes to the makeup of the Board.

A brief discussion by the Board followed and it was decided to conduct the election at this meeting.

A motion was made by Rev. Lewis and seconded by Mr. Hubbard to retain the current officers.

A motion was made by Rev. Lewis and seconded by Mr. Cummings to close nominations.

The motion carried unanimously. Mr. John Peebles was elected chairman and Mr. Ron Blake was elected vice-chair by acclamation.

APPROVED: March 4, 2002

/s/ Chairman of the Board

/rm