

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF JANUARY 7, 2002 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI PURPOSE ROOM

MEMBERS PRESENT

John Peebles, Chairman
Richard Collier
Reid Cummings
Edley Hubbard

MEMBERS ABSENT

Ronald E. Blake, Vice Chairman
Clarence Cook
P.H. Lewis

STAFF PRESENT

Frank Palombo, Planner I
Tim Ashley, Planner I
Rose Murphy, Secretary II

OTHERS PRESENT

John Lawler, Assistant City Attorney
Dave Roberts, Traffic Engineering
David Daughenbaugh, Urban Forestry

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 Chairman voting in all cases.

APPROVAL OF MINUTES:

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the minutes of the meetings of December 3, 2001, after correcting the Rev. in Mr. Hubbard's to Mr. in every place it appeared. The motion carried unanimously.

HOLDOVER:

File #5075

(Case #ZON2001-02242)

Gates of Praise Missionary Baptist Church

2251 Webb Avenue

(West terminus of Webb Avenue, extending South to the North side of McVay Drive, and West to Dog River)

Parking Surface Variance to allow substandard parking surfaces in an R-1, Single-Family Residential District; paved surfacing of driveways and parking are required.

The plan illustrates the existing structure and drive, along with the proposed grass parking area.

No one was present to represent the application.

A motion was made by Mr. Hubbard and seconded by Mr. Cummings to deny the request for a Parking Surface Variance to allow substandard parking surfaces in an R-1, Single-Family Residential District

The motion carried unanimously.

PUBLIC HEARINGS:

#5084

(Case #ZON2001-02715)

Claude D. & Sara P. Boone

1615 Government Street

(Southeast corner of Government Street and Monterey Street)

January 7, 2002

Fence Height Variance to allow the construction of a 6' high stucco fence along a side street property line; a 20' side yard setback is required for a fence higher than 3', in an B-1, Buffer Business District.

The plan illustrates the existing structures and drive, along with the proposed fence.

Mr. Claude Boone, the applicant, explained that he was seeking a variance to construct a 6' high stucco wall with iron gates along Monterey Street to completely fence in the rear of his property. He concurred with the staff recommendations.

Ms. Ceil Oliver requested clarification of the exact location of the proposed wall. She was shown the site plan and the location was clarified. Ms. Oliver remarked that she objected to the work being done on Sundays.

Mr. Boone explained that the work was being done on weekends because he worked during the week.

Mr. Peebles stated that the Board had no authority over when the work done.

A motion was made by Mr. Cummings and seconded by Mr. Collier to approve the request for a Fence Height Variance to allow the construction of a 6' high stucco fence along a side street property line subject to the following conditions:

1. the fence be relocated a minimum of one foot off of the sidewalk; and
2. the approval from the Architectural Review Board.

The motion carried unanimously.

#5085

(Case #ZON2001-02720)

Consumer Mortgage Company, Inc.

1057 Stewart Road

(South side of Stewart Road, 210'± East of Vera Street)

Side Yard and Total Combined Side Yard Setback Variances to allow the placement of a dwelling within 5' of the side yard property line and to allow a 15' total side yard setback; an 8' side yard setback and 20' combined side yard setbacks are required on a 70' wide lot in an R-1, Single-Family Residential District.

The plan illustrated the proposed building.

Ms. Halle Bernson represented the applicant and stated that they were seeking a variance to allow placement of a 55' wide house on a 70' wide lot.

Mr. Peebles asked if the house could be placed sideways on the lot to comply with setback regulations.

Ms. Bernson stated that alternative had been considered, but it would be difficult to use the single-car carport with the house in that position.

Mr. L. C. White, an adjoining property owner, asked for clarification of the application.

Mr. Peebles explained that the applicant was seeking a variance of the setback regulations to place a house on a lot.

Mr. White indicated he had no objection to the application.

Mr. Peebles reminded Ms. Bernson that a variance could be granted only if the applicant proved a hardship on the property.

A brief discussion centered on the possibility of placing the house in a different position on the lot. The inconvenience identified would be the use of the single-car carport.

January 7, 2002

There was discussion about how the house would be used, possible orientation for the house, and whether there was a hardship on the property. It was stated that the house was to be used as a residence. The Board felt the house could be repositioned on the lot, and that there was no hardship on the property proven.

A motion was made by Mr. Cummings and seconded by Mr. Hubbard to deny the request for Side Yard and Total Combined Side Yard Setback Variances to allow the placement of a dwelling within 5' of the side yard property line and to allow a 15' total side yard setback.

The motion carried unanimously.

#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 represented the applicant and stated that they were seeking a variance to allow a private day care at the proposed site.

Ms. Mary Williams stated that she owned Katt's Christian Day Care & Child Development Center and wanted to lease the church facility to open a day care. The Church previously operated a day care at the facility.

Mr. Peebles asked where the children would play.

Ms. Williams stated there was a play yard on the site.

Mr. Peebles had the applicant indicate on the site plan the location of the play yard. He stated that the area to be used was not shown on the site plan.

Mr. Ashley stated that only the church building was included in the site plan submitted, not the play yard.

Mr. Peebles asked if the play yard was fenced.

Rev. Davis said yes.

Mr. Peebles asked if Ms. Williams would also be leasing the play yard area for use by the day care.

Rev. Davis said yes.

A brief discussion centered on the number of children to be serviced, the number of workers anticipated, and the time lapse since the operation of the day care by the church. The church previously serviced 75 children; Ms. Williams anticipated 56 children and a number of workers as required by State regulations governing day care centers. The Church closed the day care in October 2000.

There was no one present in opposition.

In discussion, consideration was given to the play yard. It was determined that the site plan submitted did not include that area, and there was a need to have the applicant submit a more complete plan to include this area. It was also noted that the inclusion of the pay yard might also necessitate additional notification of property owners.

January 7, 2002

A motion was made by Mr. Collier and seconded by Mr. Hubbard to hold over 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 until the February 4, 2002, meeting to allow the applicant time to provide an updated site plan and list of property owners within 300' of the proposed play yard for notification purposes.

The motion carried unanimously.

#5087

(Case #ZON2001-02722)

Quality Sign Company, Inc. (Cummings & White-Spunner & Associates, Owners)

6347 A Airport Boulevard

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

Sign Variance to allow the addition of 72 square feet of freestanding signage on an existing 805 square foot freestanding sign on a multi-tenant site; only one freestanding sign with a maximum of 350 square foot is allowed on a multi-tenant site with less than 601' of street frontage in a B-2, Neighborhood Business District.

The plan illustrates the existing structures, parking, and sign.

Mr. Rick Nichols of Quality Sign Company, Inc. represented the applicant and stated they were seeking a variance to fill a "blank space" in an existing pylon sign where a previous tenant sign was located. He drew attention to a sketch submitted with the application, which indicated the existing blank spaces and other signs in place.

Discussion centered on the existing signs, the blank spaces, and who was responsible for placement of signs on the pylon structure. It was indicated that tenants were responsible for signage and the blank spaces would be for current tenants of the shopping center.

Mr. Peebles asked how long the pylon structure had been in place.

Mr. Palombo stated that it predated the Sign Ordinance. He explained that the size of the sign exceeded the maximum size currently allowed, and that if the sign panels were removed for more than two years the structure lost its non-conforming status. There was no documentation as to how long ago the panels were removed.

Mr. Nichols stated that there would be no increase in the size of the structure, only an improvement to the aesthetics by filling a void.

Discussion centered on aesthetics versus current status of the sign and responsibility for maintaining the sign. It was suggested that the property owner might consider taking responsibility for maintaining the panels on the sign.

A motion was made by Mr. Cummings and seconded by Mr. Hubbard to approve the request for a Sign Variance to allow the addition of 72 square feet of freestanding signage on an existing 805 square foot freestanding sign on a multi-tenant site subject to the following condition:

1. provision of frontage trees along Airport Boulevard to be coordinated with the Urban Forestry and Traffic Engineering Departments.

The motion carried unanimously.

#5088

(Case #ZON2001-02723)

E. B. M. Midtown Investments, L.L.C.

2607 Cameron Street, 27 Alexander Street & 22 Tacon Street

(South side of Cameron Street, 150'± West of Alexander Street; 100'± West of Alexander Street, 200'± South of Cameron Street; and East side of Tacon Street, 150'± South of Cameron Street)

Use and Parking Variances to allow the expansion of a parking lot onto R-1, Single-Family Residential properties and to allow off-site parking on a B-3, Community Business site;

January 7, 2002

commercial parking is prohibited in R-1, Single-Family Residential Districts and parking is required to be located on site in a B-3, Community Business Districts.

The plan illustrates the existing structure and parking, along with the proposed building and parking.

Mr. Chuck Miller, P.O. Box 2232, Mobile, AL 36652, represented the applicant and stated they had been before the Board previously regarding parking in the area. The subject of this request was to expand and add a total of 37 parking spaces in three different areas. An existing building on Cameron Street would be removed. Mr. Miller stated the purpose of this proposal was to reduce on-street parking from the streets around the site. He concurred with the staff recommendations.

Ms. Joyce Thomas stated that she owned three properties in the area and expressed concern with traffic problems due to the on-street parking on Cameron Street. She questioned how this could be a valid request for commercial property parking in a Single-Family Residential District.

Mr. Peebles stated that the area was used commercially prior to the Zoning Ordinance.

Ms. Thomas stated that the existing building did not conform to landscaping and tree requirements. She expressed concern about noise from the business. She felt approval of the application would devalue her property and impact her retirement income. Ms. Thomas requested the application be denied.

Mr. Peebles asked if the staff had received any other objections resulting from placement of the notification sign.

Mr. Palombo said no.

Mr. Cummings explained to Ms. Thomas that approval of this request would not rezone the property; would relieve on-street parking on Cameron Street; and would require the owners to bring the entire site into full compliance with the Landscape & Tree Ordinance. He felt this would alleviate Ms. Thomas' concerns.

Mr. Miller stated that the purpose of the variance was to alleviate the parking problems identified by Ms. Thomas. He stated that the commercial building on Cameron Street referred to by Ms. Thomas would be removed.

In discussion, it was noted that the conditions of the staff recommendation and the proposed removal of the existing commercial building on the subject site would address the concerns raised by Ms. Thomas.

A motion was made by Mr. Collier and seconded by Mr. Cummings to approve the request for Use and Parking Variances to allow the expansion of a parking lot onto R-1, Single-Family Residential properties and to allow off-site parking on a B-3, Community Business site subject to the following conditions:

1. full compliance with the landscaping and tree planting requirements for all parking lot expansions;
2. full compliance with the landscaping and tree planting requirements for the development site;
3. that access to Boyles Lane be denied; and
4. that the applicant submit rezoning and subdivision applications for any further development of the (large/main) site.

The motion carried unanimously.

#5089/4950

(Case #ZON2001-02724)

Jaguar Cleaners (Frank A Dagley & Associates, Inc., Agent)

6211 Airport Boulevard

(Southeast corner of Airport Boulevard and Louise Avenue)

January 7, 2002

Side Yard Setback Variance to allow a 12' x 20' drive-thru canopy within 6'4" of a side street property line; a minimum side yard setback of 20' is required on a corner lot when the lot to the rear fronts the side street.

The plan illustrates the existing structure, along with the proposed canopy.

Mr. Tommy Holt of Jaguar Cleaners stated that they had previously been granted a Side Yard Setback Variance, but did not begin the project in the allotted time, which necessitated this request.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Cummings to approve the request for a Side Yard Setback Variance to allow a 12' x 20' drive-thru canopy within 6'4" of a 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; and
2. full compliance with all municipal codes and ordinances

#5090

(Case #ZON2001-02762)

Sharon D. Townsend

2643 Bear Fork Road

(West side of Myers Road [private street], 1300'+ South of Bear Fork Road)

Use Variances to allow multiple dwellings in an R-1, Single-Family Residential District, and to allow one dwelling to be a Mobile Home; Mobile Homes are allowed with Planning Approval in R-1, Single-Family Residential Districts.

Ms. Sharon Townsend, the applicant, stated the purpose of the variance was to place a mobile home on the subject property where there was an existing residence.

Mr. Peebles asked if this was to be a permanent arrangement.

Ms. Townsend said it was intended to be temporary until her daughter and son-in-law were able to construct a residence there.

Mr. Peebles asked the staff to state the City regulations with regard to multiple dwellings on a single lot.

Mr. Palombo stated that two dwellings were allowed on a single lot only with a Use Variance, and one could be a mobile home with Planning Approval.

Mr. Peebles asked if Ms. Townsend understood the regulations.

Ms. Townsend stated the mobile home was already placed on the lot, and she was unaware of the need for prior approval.

Mr. Peebles stated that a set time frame had been established for similar cases and asked the applicant how long she estimated the mobile home would be needed.

Ms. Townsend said they hoped to have a home constructed within 5 years.

It was noted that there were a number of lots in the immediate area of the subject property that had multiple mobile homes on a single lot.

There was no one present in opposition.

In discussion, consideration was given to the surrounding properties with multiple dwellings and whether a precedent was set. Additionally, consideration was given to setting a time limit for the mobile home to remain on the property.

January 7, 2002

A motion was made by Mr. Cummings and seconded by Mr. Hubbard to approve the request for Use Variances to allow multiple dwellings in an R-1, Single-Family Residential District, and to allow one dwelling to be a Mobile Home subject to the following conditions:

1. that the Mobile Home remain on the subject property for a term not to exceed three years; and
2. that the applicant submit a subdivision application for any further development of the site.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Lawler reported that the East Church area case involving a dumpster business had been vacated. The property owner identified a use for the property that complied with the Zoning Ordinance.

He also reported that the Court of Civil Appeals affirmed Judge Woods ruling on the Sign Ordinance, as it related to a Lamar Company sign at Azalea Road and Airport Boulevard. The next step of the appeal process was to the State Supreme Court.

APPROVED: February 4, 2002

/s/ Chairman of the Board

/rm