

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF JULY 14, 2003 - 2:00 P.M.**  
**MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM**

**MEMBERS PRESENT**

Reid Cummings, Chairman  
Richard Collier  
Rev. Clarence Cooke  
H. Lamar Lee  
Stephen McDavitt

**MEMBERS ABSENT**

Vandalyn Pierre  
Edley Hubbard (S)

**STAFF PRESENT**

Frank Palombo, Planner I  
Timothy Ashley, Planner I  
Jennifer Henley, Secretary II

**OTHERS PRESENT**

David Roberts, Traffic Engineering  
David Daughenbaugh, Urban Forestry  
Wanda Cochran, Assistant City Attorney

Chairman Cummings 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.

**PUBLIC HEARINGS:**

**#5189**

**(Case #ZON2003-01384)**

**Chris Bowen**

**1057 Dauphin Street**

(South side of Dauphin Street, 106'± West of South Pine Street)

**Parking Surface, Parking Ratio, Access/Maneuvering Area and Landscaping/Tree Planting Variances to change the use of an existing 1,410 square foot dwelling to professional offices with crushed stone parking, three (3) parking spaces, an eight-foot wide driveway with maneuvering onto adjacent property and three (3) crepe myrtle trees; asphalt, concrete or an alternative paving surface, with five (5) parking spaces and a 24-foot wide driveway for two-way access with all maneuvering on-site, and a total of ten (10) trees, five (5) overstory and five (5) understory are required in a B-1, Buffer Business District.**

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

Mr. Chris Bowen, the applicant, introduced his partner, Mr. Bill Perry. He stated that they purchased the subject property approximately 18 months ago. At the time of the purchase they questioned the

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zoning of the property and were told it was zoned B-1. The existing structure was not used as a residence when they purchased it; it was converted to an office by previous owners. There was no kitchen, no shower, and a handicapped ramp was constructed at the rear. They believed they were purchasing property zoned for B-1 use. If they were forced to renovate the structure for residential purposes, this would be the only single-family residence in the immediate area. Mr. Bowen went on to say that they made additional improvements to the property after the purchase and eventually leased it to an investigative service. Since that time they learned the property did not have adequate landscaping, parking, or parking surface. Mr. Bowen felt that the property would adequately support a business with a limited number of employees and clientele. He requested approval of the request.

Mr. Cummings asked if the current leaser used the physical address on the business license.

Mr. Bowen said they used a Post Office box address.

Ms. Cochran asked the name of the current leaser.

Mr. Bowen said the person was H. A. Krause, and the name of the business was Investigative Services, Inc.

Mr. Cummings asked if Mr. Bowen requested a letter from the Zoning Office indicating the proper zoning of the property.

Mr. Bowen said that this was his first attempt to deal with commercial real estate. Mr. Perry had made the call to the Zoning Office. Based on the information Mr. Perry indicated he got from the bank and from the Zoning Office, Mr. Bowen felt comfortable that the property was zoned B-1. Mr. Bowen stated that no one else in the area complied with the parking regulations.

Mr. Cummings said there was no dispute that the property was zoned B-1. The issue was that the site was not in compliance with parking requirements, i.e. parking surface, width of access to the rear of the property, number of parking spaces, and adequate landscaping/trees.

Mr. Bowen presented photographs of the site and felt there was insufficient space to meet requirements.

Mr. Collier asked if the property to the east shared a driveway, and if there was a written agreement about shared access.

Mr. Bowen said they did share the driveway, but there was no written agreement.

Mr. Cummings asked where the people to the east parked.

Mr. Bowen said on their property and pointed out parking on the site map.

Mr. Davitt asked about ingress and egress of surrounding businesses.

Mr. Bowen was unsure, but that the law offices in the immediate area did not have adequate parking.

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Mr. Cummings asked if Mr. Bowen could obtain an agreement with the neighbor to the east to share the use of the driveway.

Mr. Bowen was unsure.

Mr. Cummings asked how long Franklin Memorial Clinic had been located at its present site.

Mr. Bowen said at least 5 years.

Mr. Cummings asked who maintained the driveway.

Mr. Bowen said there was no agreement.

Mr. Cummings asked if there were a sufficient number of trees.

Mr. Bowen said there were only 20' in the rear that was used for vehicles. They had planted trees on the front and felt there was no more room for planting on the site.

Ms. Linda Burkett, Marshall McLeod Professional Land Surveyors, stated that there was no way they could change the site to accommodate additional landscaping.

There was no one present in opposition.

In discussion, Mr. Cummings noted that this property had been used commercially for a long period of time, and that the use predated the Landscape & Tree Ordinance. He was unsure when the Zoning Ordinance was amended to include parking requirements.

Ms. Cochran stated that there was no requirement for a site to be brought into compliance at the time an Ordinance was adopted. She did note that there was a provision in the Zoning Ordinance prohibiting the Revenue Department from issuing a business license without Zoning clearance. Ms. Cochran referred to an article provided the Board members, which included criteria for allowing a variance. She felt the facts in this case proved a hardship on the property that would deny the subject property owner the same rights as other business in the area.

Ms. Cummings concurred. He felt that sufficient evidence was presented to prove that the site could no accommodate additional trees.

Mr. Collier noted that if the applicant used the structure as a home they would have to park in the driveway and back into traffic on Dauphin Street. He felt the property was extremely limited in possible uses. He suggested a condition of approval might include a written agreement with the property owner to the east to share use of the driveway to access parking in the rear of the subject site.

Mr. Cummings felt it would be in the best interest of both parties to have such a written agreement that would carry forward in the sale of either parcel.

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A discussion centered on the feasibility of requiring Planned Unit Development approval for the subject property and the property to the east. It was decided this would not be a feasible alternative due to the fact that the house on Pine Street was used as a residence.

A motion was made by Mr. Collier and seconded by Mr. Davitt to approve the request for Parking Surface, Parking Ratio, Access/Maneuvering Area and Landscaping/Tree Planting Variances to change the use of an existing 1,410 square foot dwelling to professional offices with crushed stone parking, three (3) parking spaces, an eight-foot wide driveway with maneuvering onto adjacent property and three (3) crepe myrtle trees.

The motion carried unanimously.

**#5190**

**(Case #ZON2003-01387)**

**Aimwell Missionary Baptist Church**

**500 Earle Street**

(Northwest corner of North Lawrence Street and Earle Street)

**Side Yard (Street) Setback and Parking Ratio Variances to allow a 5,730 square foot two-story addition to an existing church facility within sixteen-feet (16') of the front property line and providing seventy-three (73) on-site parking spaces; a minimum side yard setback of 20' is required, along a side street in R-3, Multi-Family Residential Districts and eighty-seven (87) on-site parking spaces are required for a church with a seating capacity of three hundred forty-seven (347).**

*The plan illustrates the existing structures, along with the proposed structure and asphalt paving.*

Mr. Palombo noted that a change was made to the report previously released. The proposed addition would be within 16' rather than the 10' reflected in the mailed report.

Mr. Larry Dorsey of Dorsey and Dorsey Engineers represented the applicant and stated they proposed to construct a two-story addition 42' to the rear of the church, which would contain a life center, offices, and choir loft. There would not be any additional seating added to the church. He went on to say that with the drainage easement on One Mile Creek, he felt it was not possible to provide additional parking spaces. An underground drainage system would be installed to address drainage issues.

Mr. Cummings asked if Mr. Dorsey was aware of the staff recommendations and asked if the applicant concurred.

Mr. Dorsey said he had seen the report and concurred.

Mr. Cummings asked the staff where the buffer would be located.

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Mr. Palombo stated that buffering on the north would be along the property line and on the west could be either on the church side of the 50' drainage easement or on the property line.

Mr. Dorsey noted that there was heavy shrubbery along Three Mile Creek.

Mr. Palombo said that a letter could be submitted stating that if the shrubbery were ever removed the applicant would erect a privacy fence.

Mr. Cummings asked how close to the north property line the new parking area would be located.

Mr. Dorsey said approximately 5 feet.

Mr. Daughenbaugh asked the impact of the new construction on trees within the City right-of-way.

Mr. Dorsey said none.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Lee to approve the request for Side Yard (Street) Setback and Parking Ratio Variances to allow a 5,730 square foot two-story addition to an existing church facility within sixteen-feet (16') of the front property line and providing seventy-three (73) on-site parking spaces subject to the following conditions:

1. full compliance with the landscaping and tree planting requirements of the ordinance;
2. full compliance with all municipal codes and ordinances; and
3. the provision of a buffer where the site adjoins residential property.

The motion carried unanimously.

## **OTHER BUSINESS:**

### **Appeals**

Ms. Cochran gave updates on several pending court cases:

1. The lawyer in the Thomas Hand case, a Navco Road fence variance built within setbacks, indicated he would file a motion to dismiss the case. That had not yet been done.
2. Mr. Norman Figures, roofing contractor on Durant Street, failed to respond to interrogatories and Ms. Cochran would seek a dismissal of this case.
3. The Frank Mosely case, off-site parking for Bloomer's Florist, was set for trial August 5<sup>th</sup>.
4. Attorney for Ms. Carzetta Scott, a lounge variance, asked why Ms. Cochran had not responded to their appeal. The staff had not received a notice of appeal.

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5. There was an appeal filed in the Reilly fence variance case on Beverly Court. The Board approved the variance request with a condition of ARB approval, which the applicant received. The Andreadas sisters, who had appeared before the Board to oppose the variance, appealed the ARB's that decision to the City Council. The City Council approved the fence. Subsequently the Andreadas' filed an appeal, but the appeal was from the decision of the Board of Adjustment. Ms. Cochran had filed for a dismissal based on lack of jurisdiction.

There being no further business, the meeting was adjourned.

**APPROVED:**            September 8, 2003

/s/ Chairman of the Board

/rm