

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF JUNE 2, 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 J. McDavitt
Edley Hubbard (S)

MEMBERS ABSENT

Vandalyn Pierre

STAFF PRESENT

Margaret Pappas, Planner II
Frank Palombo, Planner I
Timothy Ashley, Planner I
Rose Murphy, 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.

APPROVAL OF MINUTES:

A motion was made by Mr. Collier and seconded by Mr. Lee to approve the minutes of the meeting of May 5, 2003, as submitted. The motion carried unanimously.

HOLDOVERS:

#5180/5161/4932/4866/3018

(Case #ZON2003-00987)

Kimberly S. Garris

2910 Pleasant Valley Road

(North side of Pleasant Valley Road, 110'± East of Lundy Lane)

Use, Parking Surface and Access/Maneuvering Variances to re-open an existing variance to allow the expansion of an existing daycare in an R-1, Single-Family Residential District, to allow an aggregate surface parking lot, and substandard driveways; a daycare is allowed with Planning Approval in a B-1, Buffer Business District and by right in a B-2, Neighborhood Business District, the Zoning Ordinance requires all parking to be asphalt, concrete or an approved alternative paving surface, and a 12' wide drive is required for one way access.

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The plan illustrates the existing and proposed structures, parking and trees.

Ms. Kim Garris, the applicant, stated that a previous application was granted approval for an expansion at their day care. They wanted to increase the size of the expansion and were requesting a new variance. She concurred with staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the request for Use, Parking Surface and Access/Maneuvering Variances to re-open an existing variance to allow the expansion of an existing daycare in an R-1, Single-Family Residential District, to allow an aggregate surface parking lot, and substandard driveways subject to the following conditions:

1. compliance with the City's Flood Plain Land Use Ordinance;
2. full compliance with the landscaping and tree planting requirements of the Ordinance; and
3. the provision of a buffer around the West, North and East property lines.

The motion carried unanimously.

#5181

(Case #ZON2003-00988)

Medicap Pharmacy #314 (Jodi C. Silvio, P. D., Owner)

2550 Emogene Street

(Northwest corner of Emogene Street and South Florida Street)

Parking Ratio Variance to allow a parking facility for a pharmacy with ten (10) on site parking spaces; fifteen (15) on site parking spaces are required for a pharmacy with 4,425 square feet of retail and/or office space.

The site plan illustrates the existing building, landscaping, sign location and parking spaces, and sidewalks.

Mr. Jodi Silvio, the applicant, stated that the application was held over from the May meeting to allow them to submit a revised floor plan to reflect actual usage of space in the building. Fifteen on-site parking spaces were required. Mr. Silvio stated that they were short a fraction of a parking space with the revised plan and requested approval of the variance.

There was no one present in opposition.

A motion was made by Mr. Hubbard and seconded by Mr. Collier to approve the request for a Parking Ratio Variance to allow a parking facility for a pharmacy with ten (10) on site parking spaces subject to the following condition:

1. the provision of an affidavit stating that there will be no parking of delivery vans, except for pick-ups and drop-offs, during the hours of operation.

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The motion carried unanimously.

PUBLIC HEARINGS:

#5184

(Case #ZON2003-01090)

Bay Chevrolet, Inc., (Nelson Sign Co.)

2900 Government Boulevard

(Northeast corner of Government Boulevard and Farnell Lane, extending to Brossett Street)

Sign Variance to allow four wall signs for a single building on a multi-tenant site; only one wall sign per tenant is allowed.

The plan illustrates the existing building, paving, and signs.

Mr. Willie Nelson of Nelson Sign Company represented the applicant and stated that the purpose of the application was for a variance to allow four wall signs. He stated the signs were presently on the building, and they wanted to shift them from the front to the side of the building.

There was no one present in opposition.

A motion was made by Mr. Lee and seconded by Mr. Hubbard to approve the request for a Sign Variance to allow four wall signs for a single building on a multi-tenant site subject to the following condition:

1. provision of frontage trees on Government Boulevard to be coordinated with Urban Forestry.

The motion carried unanimously.

#5185/5138

(Case #ZON2003-01169)

J. Stephen Harvey

2050 Government Street

(Area bounded by Government Street to the South, Airport Boulevard to the North and Williams Street and the Illinois Central Gulf Railroad right-of-way to the East)

Sign Variance to allow a second freestanding sign; a maximum of one freestanding sign is allowed on a single-tenant site.

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

Mr. Stephen Harvey represented the applicant and stated that a variance was previously granted for the site with a condition that two trees remain on site. One was listed as a Pine Tree and the other as a 48”

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tree. The 48" tree was actually a cluster tree; neither of the trees was a heritage tree. A revised landscape plan was submitted to adequately account for the removal of the two trees.

There was no one present in opposition.

A motion was made by Mr. Hubbard and seconded by Mr. Davitt to approve the request for a Sign Variance to allow a second freestanding sign.

The motion carried unanimously.

#5186

(Case #ZON2003-01183)

John P. Vallas, Jr.

450 and 450 ½ Williams Street

(Southwest corner of Williams Street and Granger Street)

Use and Parking Ratio Variances to allow a three unit residential dwelling and one parking space in an R-1, Single-Family Residential District; only one dwelling unit is allowed in an R-1, Single-Family Residential District and five parking spaces are required for a three unit residential dwelling.

The plan illustrates the existing structure, drive, and walkways.

Mr. John Vallas, Jr. of 112 Ryan Avenue represented the applicant and stated that the purpose of the application was to allow one parking space for a 3-unit apartment complex. He went on to say that the structure had been a 3-unit dwelling since purchased in the 1960 and never had more than one parking space. A driveway on Williams Street serviced the front apartment; the apartment on the west side accesses a shared driveway on the west side of the property; and the upstairs unit utilized on-street parking on Granger Street. He provided an affidavit signed by the applicant indicating that the structure had been a 3-unit apartment house since the early 1960's and that no additional units had been added since that time. Mr. Vallas took exception to the staff report that indicated that a complaint was received indicating that the complex was converted from a duplex to a 3-unit apartment complex 8 to 9 years ago and had never been used as three units. The property currently had three electric meters, three gas meters, and only one water meter. He further stated that utility companies only keep records five years. He felt the request to allow the property to continue use as a 3-unit complex was warranted. Mr. Vallas stated that a complaint had been registered concerning use of the shared driveway. He read communication from Mr. Milton Larche of the Engineering Department indicating that the shared driveway appeared to straddle the property line and served the use of both properties.

Mr. Clarence Carrio of 2055 Granger Street, which is two doors away from the subject property. He presented a petition of opposition signed by six immediate neighbors. He took exception to Mr. Vallas' claim that the property existed as a 3-unit complex since 1960. Mr. Carrio said that he purchased his property in 1978, and the upstairs was converted to an apartment after that time by a tenant. He went on to state that none of the immediate neighbors wanted the property to serve as a triplex. There was insufficient parking for such use.

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Mr. Cummings asked how long the six neighbors who signed the petition had lived in the area.

Mr. Carrio said approximately five years.

Ms. Ann DeBrule stated that she owned property four doors away. She went on say that she lived there from 1951 until she married in 1971. She recalled going into the upstairs apartment during the time she lived nearby. She did not oppose the application.

Mr. Vallas stated that there would be no additional vehicles at the subject site than currently existed.

The applicant, Mr. John Vallas, Sr. of 4160 Heron Lakes Drive stated that he and three brothers bought the subject property in November 1960. There were three apartments at that time that were rented to employees. The upstairs apartment was vacant for a year or so until it was renovated, and the three apartments had been used through the years.

Mr. Carrio took exception to Ms. DeBrule's claim that the upstairs unit was an apartment in 1951. He stated that the outside stairs were not erected until after he purchased his property in 1978.

In discussion, Mr. Collier asked how the application came to be submitted.

Mr. Ashley explained that a complaint was registered and that the issue could not be resolved by staff due to conflicting documentation.

A brief discussion centered on whether the complex would lose non-conforming status if one unit was vacant more than two years. It was determined that if a unit was vacant for more than two years the unit would lose non-conforming status. It was felt that evidence presented did not substantiate the length of time one of the units was vacant.

Staff presented a letter postmarked March 14, 2003, from Mr. Carrio stating that the subject property was not used as a triplex. A letter dated April 22, 1988, from Mr. John P. Vallas, Sr., stating that the subject property was used as three apartments. It went on to state that since 1961 there was no time period during which any apartment was vacant for three years.

Ms. Pappas noted that amendments to the Zoning Ordinance in 1991 reduced the vacancy period from three to two years for a property to lose non-conforming status.

Mr. Cummings stated that the affidavit submitted by the applicant stated that the subject property was a triplex since 1961.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the request for Use and Parking Ratio Variances to allow a three unit residential dwelling and one parking space in an R-1, Single-Family Residential District.

The motion carried unanimously.

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#5187

(Case #ZON2003-01192)

Johnny Roberts

102 Hillwood Road

(Southwest corner of Hillwood Road and Drury Lane)

Fence Height Variances to allow the construction of a 7'6" masonry wall, 1' from the front property line and a 10' wall on a side property line; a 25' front yard setback is required from the front property line for a wall or fence higher than 3-feet in an R-1, Single-Family Residential District.

The plan illustrates the existing building and proposed structures.

Mr. Don Williams of Williams Engineering represented the applicant and stated that there were two requests included in the application. The first was to allow an existing fence, which exceeded 3' in height within the 25' front yard setback. He went on to say that there was 70' of right-of-way on Hillwood Road and a 25' neutral ground. The normal neutral ground was 12' to 13' on a normal street with 50' of right-of-way. The applicant intended to construct a 6'6" high wall; the columns would be 1' higher making the overall height 7'6". The subject property was a triangle shape with front yard on both Hillwood Road and Drury Lane. Encroachment of the 25' setback on one of the side streets was necessary to allow privacy. Mr. Williams presented photographs depicting the placement of the wall. The second request was for placement of the fence on the common property line with the neighbor next door. The applicant wanted to construct this portion of the wall 10' high. The applicant felt an 8' high wall would not allow the desired privacy for either property. Mr. Williams understood there was a mutual agreement between the two neighbors to allow the 10' height.

Mr. Cummings asked for clarification of the placement of the 10' section of the wall.

Mr. Williams said it would be on the portion of the applicant's property from Drury Lane to Hillwood Road and would begin 25' from the right-of-way on both streets. He went on to explain that Traffic Engineering had determined that the 6' height on Hillwood Road would not present a line of sight issue.

Mr. Cummings noted that the photographs indicated the wall was in place.

Mr. Williams confirmed that the fence was constructed inappropriately without a permit. The applicant had since paid the appropriate permit fees.

Ms. Margaret Lee of 100 Hillwood Road stated that her property was the only one to share a property line with the applicant. She understood the application was requesting an increase in height of the existing wall. She noted that her home was single-story, and felt that an 8' high wall was adequate to provide privacy for both homes. Ms. Lee expressed concern for the 10' height. She felt there was no precedent in the immediate area for such a height, and that previous variances granted along Hillwood Road were not for solid or 10' high construction. The nearest solid masonry wall was on Vickers Lane, shared no boundaries with Hillwood Road and was not visible from Hillwood Road. The wall on Vickers Lane was constructed to address traffic concerns related to McGregor Avenue. Ms. Lee expressed concerns about the height of the wall.

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Mr. Cummings asked if Ms. Lee was opposed to the wall totally or the height of the wall.

Ms. Lee said she was opposed to an increase in the height of the existing wall. It was currently 6' high on Hillwood Road. She felt an 8' high wall between the two properties was adequate.

Mr. Collier asked the current height of the side wall.

Mr. Williams introduced Mr. Johnny Roberts, the applicant, who explained that the wall between the two properties was currently 8' high. The wall on Hillwood Road was currently 6'6" high and would be finished with stucco and "Old Brick", bringing the finished height there to 7'6".

Ms. Lynn Fondren of 103 Hillwood Road, across the street from the subject property, expressed concern about drainage issues with construction of the wall. The City had constructed a concrete ditch next to her house to handle runoff from rain. There was no underground drainage for the area. She felt that the aesthetics of the neighborhood had been altered dramatically. She was opposed to the wall.

Mr. Roberts said that the front of the wall was to be landscaped and pleasant to view. He felt the drainage flow would not be altered.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the request for a Fence Height Variance to allow the construction of a 7'6" masonry wall (height to include any decorative details such as columns), 1' from the front property line and to deny the request for a 10' wall on a side property line.

The motion carried unanimously.

#5188

(Case #ZON2003-01193)

Steve and Rhonda Reed

101 Hillwood Road

(East side of Hillwood Road, 175' ± South of Vickers Place, extending to McGregor Avenue)

Fence Height Variance to allow the construction of an 8' masonry wall on the front property line (McGregor Avenue); a 25' front yard setback is required from the front property line for a wall or fence higher than 3-feet in an R-1, Single-Family Residential District.

Mr. Don Williams of Williams Engineering, represented the applicant and stated that the purpose of the application was to allow construction of an 8' high wall on McGregor Avenue. He stated that a similar wall existed across the street and Dunlieth Subdivision, which was approximately one block away. The subject lot had frontage on two streets, Hillwood Road and McGregor Avenue. Currently there was a wrought iron fence with a vegetative buffer along McGregor Avenue and the applicant wanted to erect an 8' high masonry wall.

There was no one present in opposition.

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A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for a Fence Height Variance to allow the construction of an 8' masonry wall on the front property line (McGregor Avenue).

The motion carried unanimously.

There being no further business, the meeting was adjourned.

APPROVED: August 4, 2003

/s/ Chairman of the Board

/rm