

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF MARCH 10, 2003 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Vice-Chairman
Richard Collier
Rev. Clarence Cooke
H. Lamar Lee
Stephen J. Davitt, Jr.

MEMBERS ABSENT

Vandlyn Pierre
Edley Hubbard (S)

STAFF PRESENT

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

OTHERS PRESENT

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

Vice-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 Vice-Chairman voting.

PUBLIC HEARINGS:

#5165

(Case #ZON2003-00300)

The Christian's Bible Teaching Church

1809 Duncan Street

(Southeast corner of Duncan Street and Lesesne Street)

Parking Ratio and Parking Surface Variances to allow a church parking facility with eighteen (18) on-site parking spaces and an aggregate surface; Twenty-six (26) on-site parking spaces paved with asphalt, concrete or an approved alternative paving surface are required for a church with a seating capacity of one hundred two (102).

Mr. Joe Lynch represented the applicant and stated that a previous approval had expired and they were reapplying for Parking Ratio and Parking Surface Variances. This application was the same as the previously approved application.

There was no one present in opposition.

March 10, 2003

A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for Parking Ratio and Parking Surface Variances to allow a church parking facility with eighteen (18) on-site parking spaces and an aggregate surface subject to the following condition:

1. the provision of wheel stops to delineate parking spaces in the rear parking area.

The motion carried unanimously.

#5166

(Case #ZON2003-00337)

Eliska Wireless Ventures I, Inc, /T-Mobile (Michael D. and Polly Ann Hardegree, Owners)

3212 Dauphin Island Parkway

(West side of Dauphin Island Parkway, 375' ± North of Gill Road)

Height, Setback, Separation Buffer and Access/Maneuvering Surface Variances to allow the construction of a 150' Monopole Telecommunications Tower, setback 15' of a lease parcel line, 150' from residential zoned property, with a gravel drive and parking; the maximum allowable height is 45', a 150' tower must be setback at least 150' from a lease parcel line, a minimum separation of 225' (150% of the height of the tower) is required, and access/maneuvering areas for towers must be asphalt, concrete or an approved alternative paving surface as required by the Zoning Ordinance, in a B-3, Community Business District.

Mr. David Wilkins represented the applicant and stated that they concurred with staff recommendations. He asked for clarification of the staff recommendation regarding the parking surface variance.

Ms. Pappas said the staff recommended denial of the request for an aggregate surface.

Mr. Wilkins stated that a portion of the existing drive was asphalt and from the end of the asphalt to the lease site was approximately 300' and 12' wide. He felt that although the subject property was not in a flood zone, but a low-lying area, an aggregate surface was the most suitable alternative.

Mr. Cummings asked if Mr. Wilkins had contacted City Engineering to determine if on-site drainage would be required.

Mr. Wilkins said no. He felt that once the tower was built, the access lane would be used minimally, not require an asphalt or concrete surface.

There was no one present in opposition.

A brief discussion centered on aggregate versus hard surface for access and maneuvering. It was noted that hard surface was required by the Telecommunications Ordinance to prevent gravel falling in to the streets and storm sewer. It was also noted that aggregate surfaces were allowed in previous approvals and seemed appropriate for this situation.

March 10, 2003

A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for Height, Setback, Separation Buffer and Access/Maneuvering Surface Variances to allow the construction of a 150' Monopole Telecommunications Tower, setback 15' of a lease parcel line, 150' from residential zoned property, with a gravel drive and parking subject to the following conditions:

1. that the applicant obtain Planning Approval from the Mobile City Planning Commission;
2. that the lease parcel fully comply with the landscaping and tree planting requirements of the Ordinance;
3. that the applicant submit a Certificate of Insurance naming the City of Mobile as an additional insured.

The motion carried unanimously.

#5167

(Case #ZON2003-00353)

Living Water Church of God In Christ

3420 Beltline Park Drive South

(Northeast corner of East I-65 Service Road North and Beltline Park Drive South)

Use and Parking Surface Variances to allow a church facility in an I-1, Light Industrial District and to allow an aggregate parking area; churches or religious facilities are allowed with Planning Approval in residential districts (R-1 – R-B) and H-B, Historic Business Districts and by right in commercial districts (B-1 – B-4), parking areas for churches or religious facilities must be asphalt, concrete or an approved alternative paving surface as required by the Zoning Ordinance.

Mr. James W. Smith of 1000 Summerville Street represented the applicant. He stated they were in the process of purchasing the property and sought to ensure the property was properly zoned for a church. He went on to say that the current membership was sixty. Presently the structure was a warehouse, and they intended to renovate it for use as a church. He requested approval of the application.

There was a brief discussion concerning provision of the required 34 parking spaces in lieu of the requested twenty-nine. It was determined that there was ample room and the church was willing to provide that number of spaces.

There was no one present in opposition.

There was a brief discussion about how uses were transferred from one zoning classification to another. Ms. Pappas explained that uses carry upward within a zoning classification, i.e. residential, commercial, or industrial, but uses do not carry from one classification to another i.e. residential does not carry to commercial, etc. It was also noted that assembly of persons was not generally allowed in an industrial classification.

Further discussion followed concerning parking, circulation, and green space. Mr. Roberts requested Traffic Engineering approval for parking and maneuvering, and Mr. Daughenbaugh requested a requirement for frontage trees if the application was approved.

March 10, 2003

Mr. Cummings addressed the question of hardship on the property. Mr. Collier agreed that there appeared to be no hardship to prevent industrial use of the property.

A motion was made by Mr. Collier to deny the request for Use, Parking Ratio and Parking Surface Variances to allow a church facility in an I-1, Light Industrial District, with twenty-nine (29) on-site parking spaces and to allow an aggregate parking area.

The motion died for lack of a second.

A motion was made by Mr. Davitt and seconded by Rev. Cooke to approve the request for Use, Parking Ratio and Parking Surface Variances to allow a church facility in an I-1, Light Industrial District, with twenty-nine (29) on-site parking spaces and to allow an aggregate parking area subject to the following conditions:

1. provision of frontage trees along East I-65 Service Road North and Beltline Park Drive S. to be coordinated with Urban Forestry;
2. provision of 34 parking spaces with wheel stops, with parking plan to be coordinated with and approved by both Traffic Engineering and Urban Development; and
3. curbing of entire gravel parking area;

The motion carried unanimously.

#5168

(Case #ZON2003-00356)

Ben L. Harbin

3121 First Avenue

(Southeast corner of First Avenue and Union Street)

Use, Parking and Access/Maneuvering Surface Variances to allow the construction of a 25' x 25' car wash facility and to allow aggregate parking and access/maneuvering areas in an R-1, Single-Family Residential District; Car Wash facilities are allowed by right in B-2, Neighborhood Business; B-3, Community Business; and I-1, Light Industrial Districts, parking and access/maneuvering areas must be asphalt, concrete or an approved alternative paving surfaces as required by the Zoning Ordinance.

Mr. Ben Harbin of 1510 Union Street, the applicant, stated that the purpose of the application was to allow construction of a car wash facility with aggregate parking and access/maneuvering areas. The purpose of the car wash was to support a community softball team.

Ms. Lucy Leggins of 1616 Union Street opposed the application based on drainage issues. She felt the subject site was not conducive for business use, or in the best interest of the community.

Ms. Levones Dubose represented the Bay Area Women's Coalition and voiced opposition to the application based on the fact that the applicant began washing cars before seeking proper authorization. Cars were being washed at night and resulted in large gatherings of individuals in an area where elderly

March 10, 2003

lived. The elderly were frightened by the large gatherings. A new subdivision was recently completed near the subject site, and the residents were vehemently opposed to a car wash because they felt it would cause an increase in traffic and disrupt a peaceful neighborhood. Ms. Dubose felt that a car wash would interfere with the future development of homes for the elderly and handicapped. She referred to a letter from Councilmember Fred Richardson opposing the location of a car wash on the subject site.

Ms. Salome Wiley, President of Bay Area Women's Coalition, stated that the organization had worked to lower the crime rate in the area, and they wanted to maintain the positive direction.

Ms. Hattie Harper, a resident of the community, opposed the application based on the possibility that such a business would draw undesirable clientele.

Mr. Elmore Pate of 3056 First Avenue and a neighborhood street captain stated that the intersection of First Avenue and Union Street was too narrow for car wash facility; drainage and parking were also of concern.

Mr. Harbin took exception to the drainage issues raised. He planned to construct the facility with drainage required by the City. He felt a car wash facility that would benefit a community softball team would not be detrimental to the area.

A motion was made by Mr. Lee and seconded by Mr. Collier to deny the request for Use, Parking and Access/Maneuvering Surface Variances to allow the construction of a 25' x 25' car wash facility and to allow aggregate parking and access/maneuvering areas in an R-1, Single-Family Residential District.

The motion carried unanimously.

#5169

(Case #ZON2003-00360)

Edward Jay Noojin, Jr.

5925 Cottage Hill Road

(Southeast corner of Cottage Hill Road and Woodland Road)

Side Yard (Street) Setback Variance to allow a 21.7' x 5.7' addition within 5.6' from the West (side) property line; a minimum side yard setback of 20' is required, along a side street in an R-1, Single-Family Residential District.

Mr. Buddy Noojin, the applicant, stated that he was seeking approval of a Side Yard Setback Variance to allow an addition to his existing dwelling. He had not obtained the necessary permits prior to commencing construction. He stated that the addition would be in line with the existing structure. He was unaware that the existing structure was too close to the side property line. Mr. Noojin stated that the rear of his house was concealed from view by a privacy fence. He did not feel an addition would detract from the aesthetics of the neighborhood.

Mr. Louis Mayo of 5922 Vogel Road, a block from the subject property, stated that he attended the meeting to hear an explanation of the proposal. He came with concern that the proposed structure

March 10, 2003

would be too near Woodland Road, and that concern was addressed. He was satisfied with Mr. Noojin's explanation and was not opposed to the application.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Davitt to approve the request for Side Yard (Street) Setback Variance to allow a 21.7' x 5.7' addition within 9.5' from the West (side) property line.

The motion carried unanimously.

#5170

(Case #ZON2003-00373)

W. Russell and Kathleen Reilly

110 Beverly Court

(Southeast corner of Beverly Court and an unnamed spur)

Fence Height Variance to allow the construction of a 6.5' high wooden fence 2.7' from the street side property line; a 20' side yard setback is required from the North (side) property line in an R-1, Single-Family Residential District.

Mr. Russell Riley of 110 Beverly Court, the applicant, stated that the side property line was along a dead-end alley that would never be opened. Commercial property abutted the property. There were no line of sight issues. He felt it would allow peaceful enjoyment for the family and allow a contained area for the children to play. The proposed fence was designed like one located on Old Shell Road and North Reed Avenue that received approval several years before, and was visible from his property. He presented photographs of the fence. Mr. Riley did not feel the fence would have a negative effect on the neighbors. The Rileys and a neighbor used the alley as a driveway.

Mrs. Kathleen Riley stated that they had little back yard area. They have four small children and needed the side yard area fenced to allow the children to play safely. There was a City-owned pond approximately 1-1/2' deep that posed a potential danger if a child could not be confined by a fence. She felt a fence would allow property line delineation for their property.

Mr. Collier asked if the fence shown on the east side of the property was an existing fence.

Mr. Riley said yes.

Mr. Cummings asked if worked was started on the fence.

Mr. Riley said yes.

Mr. Nancy Seibt of 112 Beverly Court, to the north of the subject property, stated that the fence on the subject property was 2.7' from the edge of the street. She was opposed to the application for medical reasons. She felt that emergency access to her property would be restricted. She presented a letter

March 10, 2003

from her physician attesting to her severe medical condition. Paramedics were called to her residence two times in the previous 2-1/2 years. She requested denial of the application.

Mr. Collier asked if approval of this application had any bearing on the applicants parking on the street.

Ms. Seibt said no.

Mr. Collier stated that a decision made by the Board on the fence issue had no bearing on parking on the street.

Mr. Cummings asked if Ms. Seibt accessed her driveway from the alley and what the width of the alley was.

Ms. Seibt said she did access her driveway from the alley which was approximately 18' wide.

Ms. Virginia Andreades of 115 Beverly Court attested to the medical problems experienced by Ms. Seibt and expressed concern for emergency access to her house. She also expressed concern that work had begun on the subject fence without a permit or Architectural Review Board approval. Ms. Andreades stated that other neighbors with children did not have fences and children played in the median. She presented photographs of the subject fence and surrounding homes in the neighborhood.

Ms. Callieroy Andreades of 115 Beverly Court expressed opposition to the application based on the fact that work was done with obtaining proper permits.

Mrs. Riley accepted responsibility for not obtaining permits. She said that it was done on the spur of the moment as an emotional reaction to her pet being chained.

Mr. Collier asked if the Architectural Review Board had approved the design of the fence.

Mrs. Riley said no.

Mr. Collier stated that approval was necessary. He went on to say that the only part of the fence requiring approval by the Board of Adjustment was along the unnamed spur because it was considered a side street. The remainder of the fence did not require Board approval.

Mr. Riley stated that he had discussed Ms. Seibt's medical concerns with her. He subsequently conferred with the nearest fire station as to how they gain access to a premise. He was told that access was from the front door of a residence in most instances. If access to the rear of Ms. Seibt's property was necessary with his vehicles parked in the unnamed spur, there was 11' 10" for clearance, which was ample room for a rescue vehicle. He did not feel access for medical reasons was a problem.

Mr. Collier noted that although the opponents objected to the entire fence, the Board's consideration centered on the portion of the proposed fence along the unnamed spur.

March 10, 2003

A motion was made by Mr. Collier and seconded by Mr. Lee to approve the request for a Fence Height Variance to allow the construction of an 6.5' high wooden fence 2.7' from the street side property line subject to the following condition:

1. the applicant obtain the necessary approvals from the Architectural Review Board.

The motion carried unanimously.

OTHER BUSINESS:

Election of Officers:

Mr. Collier nominated Reid Cummings to serve as Chairman of the Board of Zoning Adjustment. Mr. Davitt seconded the nomination. Mr. Cummings was elected by acclamation.

Mr. Lee nominated Richard Collier to serve as Vice-chairman of the Board of Zoning adjustment. Mr. Cummings seconded the nomination. Mr. Collier was elected by acclamation.

Ms. Pappas announced that Councilmember Nodine appointed Mr. Stephen Davitt and Ms. Vandlyn Pierre was appointed by Councilmember Johnson to represent their Council Districts on the Board of Zoning Adjustment.

Ms. Pappas reported that an appeal had been filed in the case of Mr. Dale Halladay which was denied at the February meeting. No trial date was set.

APPROVED: April 7, 2003

/s/ Chairman of the Board

/rm