

**BOARD OF ZONING ADJUSTMENT MINUTES**  
**MEETING OF NOVEMBER 3, 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. Davitt, Jr.

**MEMBERS ABSENT**

Vandlyn Pierre  
Edley Hubbard (S)

**STAFF PRESENT**

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

**OTHERS PRESENT**

David Roberts, Traffic Engineering  
David Daughenbaugh, Urban Forestry

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. Lee and seconded by Rev. Cooke to approve the minutes of the meeting October 6, 2003, as submitted. The motion carried unanimously.

**HOLDOVER:**

**#5204**

(Case #ZON2003-02127)

**Chris Bowen**

**110 North Julia Street**

(East side of North Julia Street, 258' ± North of Old Shell Road)

**Use, Access/Maneuvering, Parking Ratio and Parking Surface Variances to allow a four unit residential dwelling, a 10-foot wide driveway, five parking spaces and a grass parking surface in an R-1, Single-Family Residential District; only one dwelling unit is allowed in an R-1, Single-Family Residential District, a 24-foot driveway is required for two-way traffic, and six parking spaces paved with asphalt, concrete or an approved alternative paving surface are required.**

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

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Mr. Chris Bowen, the applicant, stated that issues raised at the last meeting included non-conforming use, parking, and feasibility of converting the structure to a single-family residence. Since the last meeting he contacted the utility companies in order to establish proof of continued use as a multiple-family structure. Responses received were provided to the staff, but continued use as separate units could not be verified. Mr. Bowen also performed a parking study on 22 occasions between the hours of 6:30 a.m. to 1:00 a.m. He found that there were few vehicles parked on this section of Julia Street between Old Shell Road and Spring Hill Avenue.

Mr. Bowen hired a home designer to determine the feasibility of converting the structure into a single-family residence. He presented a letter from the designer, which indicated that it would be a major construction venture to convert the structure to a single-family dwelling. The contractor felt the cost to convert the dwelling would exceed the current fair market value of the structure. He asked the structure remain an apartment complex.

Mr. Bowen made reference to a letter of support in the file from Mr. Devereaux Bemis of the Historic Development Department. He requested approval of the variance.

Mr. Jim Torbert of 108 N. Julia was opposed to approval of the variance. He reminded the Board that last month he had presented a petition signed by residents of N. Julia Street. Mr. Torbert presented a letter from the previous owner stating the last time the property was rented as apartments was 2000. He read aloud a letter from Mr. Felix Vereen, president of the Old Dauphinway Historic District, retracting his earlier support of the application, as represented in the letter from Mr. Bemis of the Historic Development Commission.

Mr. Cummings noted that the continued non-conforming use of the property was no longer an issue at this hearing. The Board now had to determine if there was a hardship on the property that prevented it from being used as single-family property.

Mr. James Toombs of 113 N. Julia Street expressed objection to the proposed project. He recently moved to Mobile from Seattle and chose to live in the Historic District because he liked the way the area was being revitalized. He felt that there would be increased traffic and parking problems if the variance were approved. He lived next to a vacant lot, which he felt residents and/or visitors of the apartment complex would use for parking. Mr. Toombs also expressed concern about an adverse affect on the value of his property. He presented photographs of the area indicating "No Parking" zones.

Mr. Cummings asked if Mr. Toombs was aware that there was a multi-family residence next to his property.

Mr. Toombs was not aware.

Mr. Torbert stated that the building next to Mr. Toombs was a duplex and that property owner lived in one side of the duplex and her sister lived in the other side. He said that there was enclosed parking in the rear.

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Ms. Margie Crawford of 104 N. Julia Street stated that she researched old City Directories in an attempt to determine the occupancy of the subject property and found that there were two addresses for the site from 1941 to 2001. Since that time there was no indication that anyone other than the owner resided on the property. Ms. Crawford stated that renovations on the property continued since the last meeting.

Mr. Collier felt that if the parking was the primary concern of those in opposition, a compromise might be considered.

Mr. Bowen took exception to Ms. Crawford's statement about use as a multi-family and presented copies of City Directory pages indicating multiple addresses for the property. He said that he had proper permits for exterior work, and that the crews working there also did work inside.

Mr. Lee asked if Mr. Bowen resumed interior work following the last meeting.

Mr. Bowen said that prior to the October meeting he had permits for interior and exterior work. At some point in the renovation process the City removed the permits. He then inquired if he could continue the exterior work and was told he could. He presented photographs depicting the exterior work.

In discussion, Mr. Lee asked if the applicant had continued working on the structure since the last meeting.

Ms. Pappas said that Central Permitting provided copies of the chronology of action on the subject property. It appeared the applicant had a permit for exterior work only. There were stop work orders issued, and an investigation was made since the last meeting.

Mr. Cummings noted that the structure had lost its non-conforming status, but felt that the issue to be addressed at this meeting was whether a hardship existed for converting the structure into a single-family residence. He felt strongly that evidence was presented that a hardship existed.

Mr. Collier noted that the information provided by Central Permitting indicated that a gas meter was added to the property within the last month. He expressed concern that the applicant had continued to work on the structure since the previous meeting and installed a fourth gas meter in apparent anticipation of approval of the application.

Mr. Lee also expressed concern about the continuation of work and installation of the fourth gas meter since the previous meeting. He felt that it might have been more prudent for the applicant to cease work when it was determined that the property had lost its non-conforming status.

An extended discussion centered on the nature of the hardship, alternative use as a duplex or triplex, and parking issues. It was decided that there were alternatives that would address the concerns expressed at the meeting.

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A motion was made by Mr. Collier and seconded by Mr. Lee to deny the request for Use, Access/Maneuvering, Parking Ratio and Parking Surface Variances to allow a four unit residential dwelling, a 10-foot wide driveway, five parking spaces and a grass parking surface in an R-1, Single-Family Residential District.

The motion carried with Mr. Lee, Mr. Collier, Rev. Cooke, and Mr. Davitt voting aye. Mr. Cummings voted nay.

**EXTENSION:**

**#5177**

**(Case #ZON2003-00976)**

**Maxine Ruffin, President (The Mobile City Federation of Women's Clubs, Inc.)**

**400 North Catherine Street**

(East side of North Catherine Street, 120'± North of Delusser Street)

**Use Variance to allow a 40' x 50' (2,000 square feet) addition to an existing women's club in an R-1, Single-Family Residential District; membership clubs are allowed in R-B, Residential-Business and B-1, Buffer Business Districts with Planning Approval and by right in B-2, Neighborhood Business Districts.**

*The plan illustrates the existing buildings, parking, fencing, landscaping and proposed building addition.*

Ms. Maxine Ruffin represented the applicant and requested a one-year extension of a previous approval.

Mr. Cummings stated that the Board normally allowed only a six-month extension.

Ms. Pappas explained that in order for the variance to remain valid the applicant only needed to submit plans, have them approved and permits secured for the project. The project need not be completed within the six months.

Mr. Davitt asked if the plans would be submitted within the next six months.

Ms. Ruffin said yes.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Lee to approve a six-month extension of the previously approved Parking Ration and Parking Surface Variances.

The motion carried unanimously.

**PUBLIC HEARINGS:**

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**#5206/5049**

(Case #ZON2003-02328)

**Michael P. Windom**

**208 Levert Avenue**

(East side of Levert Avenue, 220'± South of Spring Hill Avenue)

**Side and Combined Side Yard Variances to allow a 12.5' X 20.9' addition to a Single-Family Residence within 3' from the side (South) property line with a total combined side yard of 18'; an 8' minimum Side Yard and 20' Combined Side Yard Total setback is required for a lot over 60' wide.**

*The site plan illustrates the existing buildings, along with the proposed addition.*

Mr. Mike Windom, the applicant, stated that he received approval of a variance request for the proposed project approximately 18 months ago. He was unable to proceed with the project and the variance expired. He requested approval.

There was no one present in opposition.

A motion was made by Lee and seconded by Mr. Collier to approve the request for Side and Combined Side Yard Variances to allow a 12.5' X 20.9' addition to a Single-Family Residence within 3' from the side (South) property line with a total combined side yard of 18' subject to the following condition:

1. approval of the Architectural Review Board.

The motion carried unanimously.

**#5207**

(Case #ZON2003-02346)

**Oakleigh Venture Revolving Fund**

**258 Marine Street**

(West side of Marine Street, 125'± North of Augusta Street)

**Front Yard Setback Variance to allow a new dwelling unit to be constructed 9' from the front (East) property line in an R-1, Single-Family Residential District; a minimum front yard setback of 25' is required in an R-1, Single-Family Residential District.**

*The plan illustrates the proposed building, drive, and fence.*

Mr. Douglas Kearley, architect, represented the applicant and stated that he had reviewed the staff report and concurred with the recommendation.

There was no one present in opposition.

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A motion was made by Mr. Davitt and seconded by Mr. Collier to approve the request for a Front Yard Setback Variance to allow a new dwelling unit to be constructed 9' from the front (East) property line in an R-1, Single-Family Residential District subject to the following condition:

1. the approval of the Architectural Review Board prior to the issuance of any permits.

The motion carried unanimously.

**#5208**

**(Case #ZON2003-02395)**

**Larry T. McKinstry**

**1417 Brown Street**

(South side of Brown Street, 50'± East of Lafayette Street)

**Rear Yard Setback Variance to allow the addition of a 24' x 24' double-car garage 5' from the rear (South) property line; a minimum rear yard setback of 8' is required in an R-1, Single-Family Residential District.**

*The site plan illustrates the existing buildings, drives, fencing, and gravel along with the proposed rear yard setbacks.*

Mr. Larry McKinstry, the applicant, stated that he resided at the subject location for three months. He began construction without proper permits. The Old Dauphin Way Historic Commission advised him that a permit was not required. He requested a variance to allow construction of a garage. Mr. McKinstry presented photographs of a previous garage.

Mr. Cummings asked how Mr. McKinstry became aware that permits were required.

Mr. McKinstry said someone filed a complaint.

Mr. John Derrick Carter stated that he was the person who filed the complaint, but had no objection to the request for a variance.

There was no one present in opposition.

A motion was made by Mr. Collier and seconded by Mr. Lee to approve the request for a Rear Yard Setback Variance to allow the addition of a 24' x 24' double-car garage 5' from the rear (South) property line subject to the following conditions:

1. the approval of the Architectural Review Board prior to the issuance of any permits, and
2. provision of gutters and downspouts.

The motion carried unanimously.

**#5209**

**(Case #ZON2003-02398)**

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**David M. & Marcia S. Smithweck**

**6135 Timberly Road North**

(South side of Timberly Road North, 50'± East of the terminus of Burntwood Drive)

**Side Yard Setback Variance to allow the construction of a 10' x 10' storage shed within 5' from the side (West) property line; a minimum side yard setback of 8' is required for a 60' wide lot in an R-1, Single-Family Residential District.**

*The plan illustrates the structures and setbacks.*

Mr. David Smithweck, the applicant, stated that he resided in Hickory Ridge 26 years. He went on to say that he removed a storage building, but needed to store lawn equipment away from a water heater in the utility room of the residence. Mr. Smithweck constructed a new storage shed without proper permits too near the property line. He explained that he was unable to locate the shed in another area due to utility easements and stumps remaining after removal of trees. He had constructed the roof so that water would drain onto his driveway and the utility easement. He requested approval of the application.

Mr. Robert Carswell of 6201 Burntwood Drive South spoke in support of the application. He felt it did not detract from the aesthetics of the neighborhood.

Mr. Thomas Jenkins, a neighbor, also spoke in support of the application. He stated that the structure was not unsightly and encouraged the Board to approve the variance.

A motion was made by Mr. Collier and seconded by Rev. Cooke to approve the request for a Side Yard Setback Variance to allow the construction of a 10' x 10' storage shed within 5' from the side (West) property line subject to the following condition:

1. provision of gutters and downspouts.

The motion carried unanimously.

**#5210**

**(Case #ZON2003-02407)**

**Manning, Inc.**

**2260 Saint Stephens Road**

(East side of Saint Stephens Road, 260'± South of the terminus of Clinton Avenue)

**Front Yard Setback Variance to allow a 1,072 square feet addition to an existing grocery store 11'4" from the front (West) property line in a B-3, Community Business District; a minimum front yard setback of 25' is required in B-3, Community Business Districts.**

*The plan illustrates the existing structure and the proposed renovations.*

Mr. Frank Dagley of Frank A. Dagley & Associates represented the applicant and stated that the proposed addition would reduce an existing encroachment by 10'4". He noted that, contrary to the staff report, other alternatives for an addition were not feasible in the overall layout of the building due to

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the existing floor plan. The total square footage, after demolition of some portion of the building, would be approximately the same as the existing structure.

Mr. Cummings asked the intended use of an open area that would be created by removal of a portion of the building near St. Stephens Road.

Mr. Dagley thought it would be a green space.

Mr. Danny Manning, the applicant, explained that size of the building was related to the depth and length of rooms needed. Approximately 28' was needed in the meat cutting room to provide sanitary conditions for that process. He felt the proposed area was the best alternative for the addition. He requested approval of the variance. Mr. Manning said that the area remaining after removal of the portion of the building near St. Stephens Road would remain an open area.

There was no one present in opposition.

In discussion, Mr. Collier asked if there was an encroachment on the side yard of the subject property.

Mr. Palombo said no.

A brief discussion centered on whether the situation warranted requiring frontage trees. It was decided that there was sufficient landscaping on and around the site.

A motion was made by Mr. Collier and seconded by Mr. Lee to approve the request for a Front Yard Setback Variance to allow a 1,072 square feet addition to an existing grocery store 11'4" from the front (West) property line in a B-3, Community Business District.

The motion carried unanimously.

**#5211**

**(Case #ZON2003-02414)**

**Bobby J. & Roma K. Lopez**

(South side of Anna Drive, 300'± West of Shana Drive)

**Front Yard Setback Variance to allow a new dwelling unit to be constructed 10' from the front (North) property line in an R-1, Single-Family Residential District; a minimum front yard setback of 25' is required in an R-1, Single-Family Residential District.**

*The site plan illustrates the proposed buildings and setbacks.*

Mr. Bobby Lopez, the applicant, stated he was requesting a variance to allow construction of a new dwelling 10' from the North property line.

Mr. Cummings asked about the topography of the property and how the project would be affected by relocating the structure 15' nearer the water.

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Mr. Lopez said the property was sloped and fill dirt would be required for approximately 10' of the structure.

There was no one present in opposition.

Discussion centered on configuration of the subject property and whether there was sufficient area to construct the dwelling within the required 25' minimum setback. It was decided that sufficient evidence was presented to prove a hardship existed to require the 25' minimum setback.

A motion was made by Mr. Collier and seconded by Mr. Davitt to approve the request for a Front Yard Setback Variance to allow a new dwelling unit to be constructed 10' from the front (North) property line in an R-1, Single-Family Residential District.

The motion carried unanimously.

**#5212**

**(Case #ZON2003-02416)**

**William G. Anderson**

**1107 Dauphin Street**

(South side of Dauphin Street, 150'± West of South Hallett Street)

**Parking Ratio, Parking Surface and Access/Maneuvering Variances to allow the conversion of an existing residential (3129 square foot) dwelling to a professional office, to allow 5 on-site parking spaces, an aggregate surface parking lot, and a substandard (7.5') width driveway; the Zoning Ordinance requires 11 on-site parking spaces, parking to be asphalt, concrete or an approved alternative paving surface, and a 12' wide drive is required for a one-way drive in a B-2, Neighborhood Business District.**

*The site plan illustrates the existing buildings, parking area, drives, concrete, and existing setbacks.*

Mr. Michael Sherman, tenant of the subject property, stated that he was not notified by the applicant in sufficient time to prepare his case and requested a 30-day holdover.

A motion was made by Mr. Collier and seconded by Mr. Lee to approve the request by the applicant to holdover the application to the December 8, 2003, meeting.

The motion carried unanimously.

**#5213**

**(Case #ZON2003-02417)**

**Oakleigh Venture Revolving Fund**

**260 Marine Street**

(West side of Marine Street, 90'± North of Augusta Street)

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**Parking Ratio, Parking Surface and Access/Maneuvering Variances to allow the conversion of an existing residential (3129 square foot) dwelling to a professional office, to allow 5 on-site parking spaces, an aggregate surface parking lot, and a substandard (7.5') width driveway; the Zoning Ordinance requires 11 on-site parking spaces, parking to be asphalt, concrete or an approved alternative paving surface, and a 12' wide drive is required for a one-way drive in a B-2, Neighborhood Business District.**

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

Mr. Douglas Kearley, architect, represented the applicant and stated that he had reviewed the staff report and concurred with the recommendation.

There was no one present in opposition.

A motion was made by Mr. Davitt and seconded by Mr. Collier to approve the request for Parking Ratio, Parking Surface and Access/Maneuvering Variances to allow the conversion of an existing residential (3129 square foot) dwelling to a professional office, to allow 5 on-site parking spaces, an aggregate surface parking lot, and a substandard (7.5') width driveway subject to the following conditions:

1. the approval of the Architectural Review Board prior to the issuance of any permits; and
2. full compliance with all codes and ordinances.

The motion carried unanimously.

**#5214**

**(Case #ZON2003-02418)**

**Oakleigh Venture Revolving Fund**

**259 Marine Street**

(East side of Marine Street, 120' ± North of Augusta Street)

**Front Yard Setback Variance to allow a new dwelling unit to be constructed 17' from the front (West) property line in an R-1, Single-Family Residential District; a minimum front yard setback of 25' is required in an R-1, Single-Family Residential District.**

*The plan illustrates the proposed building, drive, and fence.*

Mr. Douglas Kearley, architect, represented the applicant and stated that he had reviewed the staff report and concurred with the recommendation.

There was no one present in opposition.

A motion was made by Mr. Davitt and seconded by Mr. Collier to approve the request for a Front Yard Setback Variance to allow a new dwelling unit to be constructed 17' from the front (West) property line in an R-1, Single-Family Residential District subject to the following conditions:

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1. the approval of the Architectural Review Board prior to the issuance of any permits.

The motion carried unanimously.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED:**            December 8, 2003

/s/ Chairman of the Board

/rm