

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF OCTOBER 6, 2003 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
Rev. Clarence Cooke
H. Lamar Lee
Stephen J. Davitt, Jr.

MEMBERS ABSENT

Richard Collier
Vandlyn Pierre
Edley Hubbard (S)

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. Ms. Cochran entered the meeting prior to the opening of the Executive Session.

The notation *motion carried unanimously* indicates a consensus, with the Chairman voting.

APPROVAL OF MINUTES:

A motion was made by Rev. Cooke and seconded by Mr. Davitt to approve the minutes of the meeting September 8, 2003, as submitted. The motion carried unanimously.

HOLDOVER:

#5200

(Case #ZON2003-01856)

John Felix & Carolyn W. Vereen

1750 Dauphin Street

(Northwest corner of Dauphin Street and Semmes Avenue)

Side Yard Setback Variance to allow the construction of a 5' high wooden fence on a side street property line (Semmes Avenue); a 20' side street setback is required for a wall or fence higher than 3-feet on a corner lot, with the lot to the rear fronting the side street in an R-1, Single-Family Residential District.

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

In the absence of the applicant, Mr. David Roberts, Traffic Engineering, indicated that he had met with the applicant since the last meeting and reached a compromise for placement of the fence. They agreed

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to reduce the height of the wooden privacy fence (from the corner intersecting with the alley/driveway at 9 Semmes Avenue) to a height of 3', on a taper 5' back from this point.

There was no one present in opposition.

A motion was made by Mr. Davitt and seconded by Rev. Cooke to approve the request for a Side Yard Setback Variance to allow the construction of a 5' high wooden fence on a side street property line (Semmes Avenue) subject to the following condition:

1. the height of the wooden privacy fence (from the corner intersecting with the alley/driveway at 9 Semmes Avenue) be reduced to a height of 3' on a taper 5' back from this point.

The motion carried unanimously.

EXTENSION:

#5165

(Case #ZON2003-00300)

The Christian's Bible Teaching Church

1809 Duncan Street

(Southeast corner of Duncan Street and Lesesne Street)

Request for six month extension.

The plan illustrates the existing structures and proposed parking.

Mr. Jesse Agee represented the applicant and stated that they were seeking a six-month extension of a previous approval.

Mr. Cummings asked if the applicant had seen the staff recommendation to approve the request.

Mr. Agee said no.

Mr. Davitt asked if the funds would be available within the next six months.

Mr. Agee said the funds were available now. They were experiencing problems with design plans and felt that those problems would be resolved in the next six months.

There was no one present in opposition.

A motion was made by Mr. Davitt and seconded by Rev. Cooke to approve the request for a six-month extension of the previously approved Parking Ratio and Parking Surface Variances.

The motion carried unanimously.

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PUBLIC HEARINGS:

#5202

(Case #ZON2003-02105)

Joseph W. Bacon

1949 River Road

(North terminus of River Road, 265' ± North of North Road)

Use Variance to allow a second dwelling unit in an R-1, Single-Family Residential District; only one dwelling unit is allowed in an R-1, Single-Family Residential District.

The site plan illustrates the existing buildings, drives, fencing, and lot lines.

Mr. Joe Bacon, the applicant, stated that they were requesting approval of a Use Variance to allow use of an existing garage apartment on the front of their property as a single apartment for their son. He presented photographs of the structure. Mr. Bacon stated that the property was located at the end of a dead-end street. The structure was unoccupied for a number of years resulting in the need for a variance.

The question was raised as to whether the property was properly subdivided. It was not known if the current subdivision of the property was done prior to 1952. Ms. Pappas noted that the Planning Commission did not hear a case. She went on to say that the applicant was not advised to pursue resubdividing the property because of the substandard nature of the River Road right-of-way.

There was no one present in opposition.

A motion was made by Mr. Davitt and seconded by Rev. Cooke to approve the request for a Use Variance to allow a second dwelling unit in an R-1, Single-Family Residential District subject to the following condition:

1. submission of an application for subdivision approval to the Planning Commission within six months.

The motion carried unanimously.

#5203

(Case #ZON2003-02131)

Munn Enterprises Inc.

1015 East I-65 Service Road South

(East side of East I-65 Service Road South, 683' ± North of International Drive)

Sign Variances to allow three wall signs and two freestanding signs for a single-tenant site; only two wall signs and one freestanding sign are allowed for a single-tenant site.

The plan illustrates the existing and proposed structures and signs.

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Mr. Robert Langham, General Manager of Pat Peck Nissan, stated that they were requesting approval for additional signage. Currently there are two freestanding signs and two wall signs on the front of the building. They were requesting one freestanding sign to be relocated and one additional wall sign for the main sales building. The request for two freestanding signs was due to a large area of frontage left with no signage after Nissan recommended moving an existing freestanding sign farther south.

There was no one present in opposition.

A brief discussion centered on whether additional signage was justified for a one-product dealership. It was felt that there was insufficient evidence presented to indicate that the allowed number of signs would cause a hardship.

A motion was made by Mr. Lee and seconded by Rev. Cooke to deny the request for Sign Variances to allow three wall signs and two freestanding signs for a single-tenant site.

Mr. Lee, Rev. Cooke, and Mr. Cummings voted aye. Mr. Davitt voted nay.

The motion failed resulting in denial of the request for Sign Variances.

#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.

Mr. Chris Bowen of Bowen Realty, the applicant, stated that he purchased the subject property in August 2003. He went on to say that the structures on the property were constructed as a multi-family residence approximately 1910-1915. It consisted of a single-family residence and a detached garage apartment. In the 1940's the main structure was converted to three units, with the addition of one unit downstairs and one unit upstairs. At the same time a studio apartment was constructed on the rear of the garage apartment, making five dwelling units on the property. There was also a five-unit storage facility along the rear property line. Mr. Bowen presented photographs of the structures.

Mr. Bowen stated that the previous owner resided on the property and rented the units until approximately 1999. Mr. Bowen went on to say that after he purchased the property he purchased a permit for renovation of the property. He stated that there were four power meters, water meters, gas meters, water heaters, and completely separate central heat and air systems for the structures when he

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purchased the property. All units had front and rear doors. He noted that there were numerous structures such as this in the historic districts. He requested approval to use four of the five units as they had been for the past 57 years. He felt it was not feasible to convert the property to single-family use.

Mr. Cummings asked about the number of parking spaces currently on the property.

Mr. Bowen said there was a three-vehicle carport and two parking spaces on the side. He noted that none of the multi-family structures in the historic district were required to provide a 24' driveway or turn-around. He felt the maximum number of vehicles parked would be six, when all units were leased.

Mr. Jim Torbert of 108 North Julia Street presented a petition of opposition from neighbors on North Julia Street. He stated that he lived next door to the subject property for 20 years. He went on to say that during that time only two of the units were rented at any one time, and none of the units had been leased since 1999. Mr. Torbert expressed concern for parking. He took exception to Mr. Bowen's statement that five vehicles could be parked on site. He stated that the property was never used totally as rental property; family of the owners resided on the property at all times. He requested denial of the application.

Mr. Cummings asked if Mr. Torbert was aware of other rental properties on North Julia Street.

Mr. Torbert said yes.

In discussion, Ms. Pappas noted that the Board of Zoning Adjustment established a policy in the early 1990's that a multi-family structure would lose non-conforming use status if it were vacant for a period of two years or more, regardless of how many utility meters were attached to the structure.

Mr. Cummings made reference to a letter in the file from Mr. Devereaux Bemis expressing the Historic Development Commission's support of this application.

Mr. Roberts stated that Traffic Engineering had concerns about possible on-street parking and lack of space to allow a 24' driveway and turnaround for parking in the rear of the property. He noted that this was a narrow two-way street.

Ms. Cochran advised that the first issue to be addressed was whether the property had non-conforming status, and whether any use other than R-1 would be allowed.

Mr. Lee referred to the staff report, which indicated that the process of providing non-conforming use documentation was not completed and asked staff for an explanation.

Mr. Ashley explained that he had conferred with the applicant at the time he applied for a permit for an electrical six-month investigation. Because the property was zoned R-1, Mr. Ashley researched to determine if there was any non-conforming documentation in the file. There was no documentation in the file. Mr. Ashley stated that he informed the applicant of the necessary documentation that was required. Subsequently, the applicant submitted the documentation to the Code Administration office rather than Land Use office, and the applicant was improperly issued a permit for renovation. He went

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on to say that complaints from neighbors prompted an investigation, which revealed incomplete non-conforming documentation. At this time a stop-work order was issued. At this point, it could not be determined how long the units were vacant.

A motion was made by Mr. Davitt and seconded by Rev. Cooke to hold over the application for 30 days to allow the applicant time to submit additional non-conforming use documentation for each unit.

The motion carried unanimously.

#5205

Case #ZON2003-02140)

Network Alabama, Inc. dba Sign Pro (Eagle Chemical Co.)

1500 Telegraph Road

(East side of Telegraph Road, ¼ mile ± North of Jarvis Road)

Sign Variance to allow a 64 square foot off-site freestanding sign; all signs must be located on-site (private property).

The site plan illustrates the existing 20' roadway easement, existing sign location, proposed sign easement location, and proposed sign location.

Mr. Jeff Warner, Manager of Sign Pro, represented the applicant and stated that they requesting approval of an off-site sign to replace an existing off-site freestanding sign. He stated that there was an agreement with the property owner, and Traffic Engineering had approved the placement of the sign.

Mr. Cummings asked if there were currently any signs on the building.

Mr. Warner said no.

There was no one present in opposition.

A motion was made by Mr. Lee and seconded by Mr. Davitt to approve the request for a Sign Variance to allow a 64 square foot off-site freestanding sign subject to the following conditions:

- 1) the submission of document illustrating the 20' x 20' easement is probated in County records;
- 2) the provision of the maximum square footage of thirty-two feet per side; and
- 3) the provision of one Live Oak Tree to be placed on the 20' X 20' sign easement.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Rick Shaw of Louisiana Unwired requested a one-year extension of a previously approved application that would expire October 7, 2003.

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After discussion it was decided to take no action on Mr. Shaw's request due to the fact that a formal application for an extension was not submitted.

There being no further business, the meeting was adjourned.

APPROVED: November 3, 2003

/s/ Chairman of the Board

/rm