

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF SEPTEMBER 8, 2003 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

Reid Cummings, Chairman
Richard Collier
H. Lamar Lee
Stephen J. Davitt, Jr.
Vandalyn Pierre
Edley Hubbard (S)

MEMBERS ABSENT

Rev. Clarence Cooke

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
John Lawler, Chief 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 July 8 and August 4, 2003, meetings as submitted. The motion carried unanimously.

PUBLIC HEARINGS:

#5197

(Case #ZON2003-01723)

Forsite, LLC, (Mobile County School Board, Owner)

4645 Bit and Spur Road

(Southeast corner of South University Boulevard and Bit and Spur Road)

Use, Height and Access Variances to allow the construction of a 160' Monopole Telecommunications Tower with aggregate access and parking in an R-1, Single-Family Residential District; Telecommunications Towers are prohibited in R-1 Districts, the maximum height allowed is 35', parking and access surfaces to be asphalt, concrete or an approved alternative paving surface are required in an R-1, Single-Family Residential District.

September 8, 2003

The site plan illustrates the proposed tower location, lease area, easement, existing fencing, easements and landscaping.

Mr. Paul Beasley represented the applicant and stated they were requesting approval to construct a 160' monopole tower on the northeast corner of Mobile County School Board property at University Boulevard and Bit & Spur Road. The tower would accommodate a minimum of four carriers. He noted that the existing tower located on the property, and used by the school, was not structurally sound to accommodate any additional carriers. Mr. Beasley went on to say that they were also seeking approval for an aggregate surface for the access road due to the low usage of the road which would be for maintenance purposes only.

Mr. Michael Vitenas, Development Manager for Verizon Wireless, stated that they had worked with the staff for several months to develop a site in the area. He felt that the proposed site was the least obtrusive to the environment and was supported by the staff. Verizon needed to fortify this area of its network and he requested approval of the application.

Mr. Joe Belanger a resident of Bit & Spur Road stated that the tower would be to the rear of his property. He questioned the overall affect of the tower on the neighborhood and where access to the tower would be located.

Mr. Belanger was shown that the access would be from Bit & Spur Road. He questioned health risks of construction a tower.

Mr. Beasley stated that there would be no interference to televisions, telephones, satellites, etc. The FCC regulates the frequencies, and carriers are required to stay within their assigned frequency. As part of the application process, an engineer was required to sign that the health, safety, and welfare of the community would not be affected.

Mr. Davitt asked if the access would encroach on the school's parking area.

Mr. Beasley said no.

Mr. Davitt asked about plans to contain an aggregate surface.

Mr. Beasley said they used materials that bind together when wet. They had not experienced any erosion problems with this surface and they would take measures to prevent runoff if, necessary.

A motion was made by Mr. Collier and seconded by Mr. Hubbard to approve the request for Use, Height and Access Variances to allow the construction of a 160' Monopole Telecommunications Tower with aggregate access and parking in an R-1, Single-Family Residential District subject to the following conditions:

- 1) full compliance with the landscaping and tree planting requirements of the Ordinance for the lease parcel site (to be coordinated with and approved by Urban Forestry);

September 8, 2003

- 2) coordination with and approval by Urban Forestry and Urban Development staff for the proposed access drive including containment of gravel within the access drive; and
- 3) that the applicant submit a Certificate of Insurance naming the City of Mobile as an additional insured.

The motion carried unanimously.

#5198

(Case #ZON2003-01725)

Eddie Curran

133 Silverwood Street

(West side of Silverwood Street, 545'± South of Spring Hill Avenue)

Side Yard and Combined Side Yard Variances to allow the construction of a 17' x 22' addition (374 square feet) to an existing dwelling within 1.8' of the side (North) property line and to allow a combined side yard total of 16.1'; a 7.1' minimum side yard setback and a 16.6' combined side yard total are required for a 50' wide lot in an R-1, Single-Family Residential District.

The plan illustrates the existing and proposed structures.

Mr. Douglas Kearley, architect, represented the applicant and concurred with the 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 Side Yard and Combined Side Yard Variances to allow the construction of a 17' x 22' addition (374 square feet) to an existing dwelling within 1.8' of the side (North) property line and to allow a combined side yard total of 16.1' subject to the following conditions:

- 1) the provision of a minimum five foot side yard setback along the (North) side property line; and
- 2) the provision of gutters and downspouts.

The motion carried unanimously.

#5199

(Case #ZON2003-01850)

Michael L. Lapeyrouse

(North side of Old Shell Road, 210'± West of Ridgelawn Drive West)

Front Yard Setback and Fence Height Variances to allow the construction of a 10' fence, along the front property line; a 25' front yard setback is required for a fence higher than 3-feet in an R-1, Single-Family Residential District and the maximum height of a wall or fence is 8'.

September 8, 2003

The site plan illustrates the existing building, easements, and proposed fence location.

Mr. Michael Lapeyrouse of 5000 Old Shell Road represented the application, and stated that he was constructing a new home and seeking variances to construct a wall at the rear of his property. The purpose of the wall was to filter noise and to provide security and privacy. There were a number of Oak Trees he wanted to keep inside the wall. The materials to be used were chosen to protect the Oak Trees. The proposed fence line was in line with those on either side of his property. He presented photographs of similar walls in the immediate area. Mr. Lapeyrouse went on to say that his property along Old Shell Road was approximately two feet below road grade. Therefore, he felt that the 10' height of the wall would keep it within the 8' maximum height allowed.

Mr. Roberts stated that Traffic Engineering had concern for line of sight issues for adjoining properties.

Mrs. Deborah Madonia, an adjoining property owner, stated that her house fronted Old Shell Road. She said they had a circular driveway and expressed concern for line of sight when exiting their property. She asked that they be notified if plans develop for construction of a wall along the side property line.

Mr. Cummings assured Mrs. Madonia that Traffic Engineering would be involved in the placement of the wall to ensure line of sight was protected if the application was approved.

In discussion, Mr. Collier asked if existing walls along Old Shell Road received Board of Adjustment approval.

Ms. Pappas stated that the Planned Unit Development approval by the Planning Commission included a wall for the project on Old Shell Road at Hillwood Road.

Mr. Cummings noted that the same was true for condominium projects on the north side of Old Shell Road.

A brief discussion centered on access to a public right-of-way. Mr. Ashley stated that he had met with the applicant about the need for frontage on a public right-of-way to allow access for emergency vehicles. He went on to say that the applicant agreed to place an access on Old Shell Road.

A motion was made by Mr. Lee and seconded by Mr. Collier to approve the request Front Yard Setback and Fence Height Variances to allow the construction of a 10' fence, along the front property line subject to the following conditions:

1. that the fence be placed 10' inside Old Shell Road property line;
2. coordination with and approval by Traffic Engineering for fence placement as well as a gate on Old Shell Road; and
3. coordination and approval by Urban Forestry due to large existing trees.

The motion carried unanimously.

September 8, 2003

Ms. Pierre left the meeting after the vote on this application.

September 8, 2003

#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.

Mr. Felix Vereen of 1750 Dauphin Street stated the purpose of the application was for approval of a 5' wooden privacy fence. The fence was constructed to replace a chain link fence. He stated that they had received Architectural Review Board approval for the design of the fence and thought that was the only approval required. He referred to letters of support from neighbors, which were in the file. Mr. Vereen pointed out that the photographs in the file showed the previous and existing fences, the general neighborhood, and similar fences in the immediate area. He requested approval of the variance.

Mr. Cummings asked how long Mr. Vereen lived in the subject property.

Mr. Vereen said approximately two years.

Mr. Cummings asked if the existing 6' wood fence that extended to Dauphin Street was in place when they bought the property.

Mr. Vereen said yes.

Mrs. Carolyn Vereen of 1750 Dauphin Street stated that the previous chain link fence was covered with shrubbery and vines. The gate had slats woven through it for privacy. She felt there was not a clear line of sight at the intersection of the alley due to the years of shrubbery growth on the old fence. They utilized the original posts to attach the wood boards. The purposes of replacing the fence were aesthetic value to the neighborhood, privacy, to be eligible for the banner and shield, and security. She referred to an incident involving theft from a vehicle in the parking lot of a business directly across Semmes Avenue from her house. Their house was vacant frequently throughout the year and she felt they were isolated even though there was a residence immediately to the west of their property. She felt a 3' fence would serve no purpose. Mrs. Vereen stated that vehicles did not use the alley to the north, and that there was little pedestrian traffic on Semmes Avenue.

There was no one present in opposition.

Discussion centered on safety of pedestrians crossing the alleyway on Semmes Avenue. It was noted that complaints were recorded after the fence was constructed and vehicles were utilizing the alley.

September 8, 2003

Mr. Cummings asked if the applicant would have to replace the wooden fence with chain link if the application was denied.

Ms. Pappas said a replacement fence would have to comply with setbacks and/or height restrictions and that an open iron fence was an option.

A brief discussion centered on parameters used by Traffic Engineering regarding line of sight. It was determined that the parameters used did not address driveways. The Board could not determine to its satisfaction that the height of the wooden fence along Semmes Avenue presented more of a line of sight problem than the existing, shrubbery covered, chain link fence along the alley.

A motion was made by Mr. Davitt and seconded by Hubbard to hold over 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) for 30 days in order for the applicant to coordinate with Traffic Engineering on exact placement and height of the proposed fence.

The motion carried unanimously.

#5201

(Case #ZON2003-01865)

Charles L. & Elizabeth K. Collins

3458 Loyola Lane

(Northeast corner of Loyola Lane and Dogwood Lane)

Side Yard Setback Variance to allow the construction of a 6' high wooden fence on the side street property line (Dogwood Lane); 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 structure and the proposed fence.

Mrs. Elizabeth Collins, the applicant, stated that the purpose of the variance request was to allow construction of a 6' wooden privacy fence to tie into an existing 6' fence on the south and east sides of the property. They had removed a carport and driveway in the rear and made an addition to the house. Because Dogwood Lane was heavily traveled they wanted to enclose the yard for privacy and for security of their children.

Mr. Cummings noted that the staff report expressed concern for safety of pedestrians on Dogwood Lane.

Mrs. Collins said pedestrians generally used the sidewalk on the west side of Dogwood Lane.

A brief discussion centered on the proximity of the proposed fence to Dogwood Lane. Ms. Collins noted that the fence would be approximately 28' from the center of Dogwood Lane.

September 8, 2003

Mr. Roberts stated that the concern of Traffic Engineering was not for vehicular traffic from Loyola Lane onto Dogwood, but for pedestrians, where the Collins' driveway accessed Dogwood Lane.

Ms. Collins stated that they had removed a 4' picket fence along Dogwood Lane after they purchased the property when it was found to encroach the City's right-of-way.

Mr. Sam Mason stated that he and his aunt maintained the house to the north of the subject property on Dogwood Lane. He said there was a protected 5' diameter Red Oak tree that could not be removed on the east side of Dogwood Lane that prevented construction of a sidewalk there. He presented a photograph depicting the line of sight difficulty exiting Ms. Miller's driveway due to the tree. He felt a 6' privacy fence would add to the line of sight difficulty. Mr. Mason did not feel security in the area was an issue. He felt a 3' fence would be adequate. He went on to say he had met with the applicants to attempt a compromise, but was unsuccessful. He requested the application be denied.

Mr. Cummings asked how traffic was routed during school hours.

Mrs. Collins said traffic entered Myrtlewood Lane and exited Dogwood Lane from 7:00 to 9:00 a.m. and 2:00 to 4:00 p.m.

Mr. Cummings asked if the applicant felt a compromise could be reached with a 30-day hold over.

Ms. Collins stated that she wanted to begin construction of a fence within 30 days.

A discussion centered on whether the proposed fence would add to existing line of sight problems created by the large Red Oak tree. The discussion also included dialogue on the need for parameters for construction of fences on corner lots to allow sufficient line of sight.

A motion was made by Mr. Davitt and seconded by Mr. Lee to deny the request for a Side Yard Setback Variance to allow the construction of a 6' high wooden fence on the side street property line (Dogwood Lane).

In discussion, Mr. Collier presented an alternative to allow the proposed fence with a condition that it be setback 5' from the property line along Dogwood Lane.

Mr. Davitt withdrew his motion to deny.

A motion was made by Mr. Collier and seconded by Hubbard to approve the request for a Side Yard Setback Variance to allow the construction of a 6' high wooden fence on the side street property line (Dogwood Lane) subject to the following condition:

1. that the fence be setback 5' from the Dogwood Lane property line.

The motion carried unanimously.

OTHER BUSINESS:

September 8, 2003

There being no further business, the meeting was adjourned.

APPROVED: October 6, 2003

/s/ Chairman of the Board

/rm