

BOARD OF ZONING ADJUSTMENT MINUTES
MEETING OF SEPTEMBER 9, 2002 - 2:00 P.M.
MOBILE GOVERNMENT PLAZA, MULTI-PURPOSE ROOM

MEMBERS PRESENT

John Peebles, Chairman
Reid Cummings, Vice-chairman
Rev. P. H. Lewis
Rev. Clarence Cooke
H. Lamar Lee
Edley Hubbard (S)

MEMBERS ABSENT

Richard Collier

STAFF PRESENT

Frank Palombo, Planner I
Timothy Ashley, Planner I
Rose Murphy, Secretary II

OTHERS PRESENT

David Roberts, Traffic Engineering
David Daughenbaugh, Urban Forestry
John Lawler, Assistant City Attorney

Chairman Peebles 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 Rev. Lewis and seconded by Mr. Cummings to approve the minutes of the meeting of August 5, 2002, as submitted. The motion carried unanimously.

HOLDOVERS:

#5132

(Case #ZON2002-01754)

Foundation for Retarded Citizens, Inc.

(Southwest corner of Montlimar Drive and Michael Boulevard)

Parking Surface and Tree Planting Variances to allow a natural (grass) parking surface in a B-3, Community Business District, asphalt or concrete is required for all parking surfaces; and to allow four (4) overstory trees, a total of seventeen (17) trees, nine (9) overstory and eight (8) understory are required in a B-3, Community Business District.

The site plan illustrates the proposed drive, parking, landscaping, and existing fencing, easements, and setbacks.

Mr. Maury Friedlander, Attorney and President of the Foundation for Retarded Citizens represented the applicant. He introduced Mr. Mike McAleer, Real Estate Agent, and Mr. Andre Doucet, the proposed tenant for the subject property. Mr. Friedlander stated that the applicant proposed to plant four heritage trees. It was their understanding the Tree Ordinance required planting a heritage tree for each 30' of frontage. It was their position that four trees were sufficient based on 107' of road frontage on Montlimar Drive. The staff report indicated seventeen (17) trees were required. Mr. Friedlander felt the staff based this decision on what they considered frontage on Michael Boulevard. He referred to the submitted plat and noted that Lot 5 was the only parcel for which the Tree Planting Variance was requested. He went on to say that Lots 3 and 4 had no present intended use. Mr. Friedlander felt the 200' of frontage on Michael Boulevard was not owned by Foundation for Retarded Citizens, Inc. There was a chain link fence along their property line and a drainage ditch between their property, as well as and Michael Boulevard. Their property had no ingress or egress to Michael Boulevard. If it was determined that they did own the area, he felt it was subject to an easement to the City of Mobile.

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Mr. Friedlander felt the Michael Boulevard frontage should not be used to calculate the number of trees required.

Mr. Friedlander stated that the proposed tenant would use the property for an automobile sales lot. The tenant wanted to use the property in natural, grassy state with gravel added, the Zoning Ordinance requires a concrete or asphalt surface. He stated that there were a number of businesses in the immediate area that did not have concrete or asphalt parking areas and driveways. Mr. Friedlander said they were asking for the Parking Surface Variance for a period of two years. At that time the proposed tenant agreed to comply with Zoning Ordinance requirements. He requested approval of the request for variances with the Parking Surface Variance portion to expire after two years.

Mr. Hubbard asked if there was a curb for the street.

Mr. Friedlander said yes. There was a curb cut into Lot 4, and they intended to make a curb cut into Lot 5.

Mr. Paul Eskridge of Johnstone Supply, 1248 Montlimar Drive, stated that they built approximately four years ago. They were required to comply with the Landscape and Tree Ordinance and were pleased with the aesthetics that resulted. His primary concern was the request to allow grass/gravel parking. He was opposed to any surface other than asphalt or concrete.

Mr. Friedlander stated that the service station across the street had Michael Boulevard frontage, thus requiring them to comply with Landscape and Tree requirements. He restated that they were requesting a two-year limit on the Parking Surface Variance. He noted that the boat sales business across Montlimar Drive from the subject property was not in compliance with the Tree Ordinance.

In discussion, Mr. Palombo stated that the required trees were for the project area only. The total tree count for this project area was based on 107' frontage. Michael Boulevard drainage easement was not considered in the calculation. The entire site required 17 total trees. The applicant met with staff approximately two months prior to explain the proposed project, which did not include trees or asphalt/concrete paving. All new businesses were required to meet these requirements.

Mr. Daughenbaugh stated that the Tree Ordinance allowed Urban Forestry some flexibility. The applicant had indicated he felt he was only required to provide four trees. Mr. Daughenbaugh noted that this was not the case because the applicant did not include some of the perimeter area. Mr. Daughenbaugh went on to say that neither the applicant, nor Mr. Friedlander had contacted Urban Forestry to work out some of the issues.

Mr. Peebles asked for the landscaping and tree requirements based on staff's calculations.

Mr. David Daughenbaugh said it was as indicated in the staff report, nine overstory and eight understory.

Mr. Cummings noted that the area for proposed landscaping, south of the fence line, appeared to be ample for understory trees.

Mr. Daughenbaugh stated that the curb cut and sidewalk must meet City standards. He asked if the applicant could be required to comply with asphalt and stormwater retention requirements.

Mr. Cummings asked how runoff water would be dealt with if the site was allowed to remain grass and/or gravel surface.

It was noted that the applicant would be required to provide a stormwater detention plan.

A brief discussion centered on the proposed temporary nature of the proposed business and how the site would be brought into compliance after the two-year period. It was not clear who proposed to be responsible to bring the site into compliance after the time period.

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A motion was made by Mr. Hubbard and seconded by Rev. Lewis to deny the request for a Parking Surface Variance to allow a natural (grass) parking surface in a B-3, Community Business District and to approve the request for a Tree Planting Variance to allow four (4) overstory trees under the following conditions:

1. four (4) overstory trees be planted as frontage trees (within the first twenty-five feet) prior to obtaining a certificate of occupancy; and
2. that the site be brought into full compliance with the Landscape and Tree Ordinance within two years.

Mr. Cummings voiced his opposition to the motion, for the record, because other businesses along Montlamar Drive were required to comply with the Landscape and Tree Ordinance.

The motion passed with Mr. Cummings voting nay.

#5133

(Case #ZON2002-01860)

Daoust Contracting Services, Inc (David Slepian, Owner)

54 Jordan Lane

(West side of Jordan Lane, 78'± North of Wilkinson Way)

Rear Yard Setback Variance to allow the addition of a 6' x 16' covered porch to an existing garage/gameroom 4'11" from the rear (North) property line; a minimum rear yard setback of 8' is required in an R-1, Single-Family Residential District.

The plan illustrates the existing structure along with the proposed additions.

Mr. Greg Daoust represented the applicant and stated they did not feel there was any encroachment on neighbors due to a 20' wide bridle path to the rear of the subject property. He requested approval of the request.

Mr. Hubbard asked the purpose of the bridle path.

Mr. Daoust said it was community property resulting from the closure of the Bit & Spur Riding Stables.

There was no one present in opposition.

A motion was made by Mr. Cummings and seconded by Mr. Lee to approve the request for a Rear Yard Setback Variance to allow the addition of a 6' x 16' covered porch to an existing garage/gameroom 4'11" from the rear (North) property line.

The motion carried unanimously.

#5134

(Case #ZON2002-01869)

Joyce G. Wesley, (Mrs. Rebecca Simpson, Owner)

1003 Edwards Street

(Southwest corner of Edwards Street and Green Street)

Use Variance to allow a barber/style shop in an R-1, Single-Family Residential District; a barber/style shop requires a minimum zoning of B-2, Neighborhood Business.

The plan illustrates the existing structure and proposed parking.

Mr. Gerald D. Byrd, Byrd Surveying Company, represented the applicant and stated that the application was for use of a B-1 residence for a barber/style shop. He stated the property was rezoned approximately six months prior from R-1 to B-1 for use as a museum. That project did not materialize. There was an existing hair salon/barber shop across the street from the subject property. The subject property would offer more area for the hair salon/barber shop. There would be no more than two

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chairs in the shop. The existing shop had served the community for over 20 years, and was the only shop to serve both men and women. He requested approval of the request.

Mr. Peebles asked for clarification on the rezoning of the subject property.

Mr. Byrd understood that the Planning Commission rezoned the property to B-1.

A brief discussion centered on whether the rezoning process was completed. Research by the staff indicated that the City Council had not approved the rezoning. The applicant could not produce paperwork to confirm the rezoning approval. However, staff noted that even if the Council had approved the rezoning, a variance was still needed because a barber/style shop required B-2 zoning.

Mr. Dave Roberts of Traffic Engineering asked about parking facilities.

Ms. Joyce Wesley, the applicant, stated there were four spaces.

Staff noted that there were six spaces indicated on the drawing submitted, with capacity to add more if necessary.

Ms. Mary C. Wright of 1006 Edwards Street questioned how approval of the variance would affect her property taxes.

Mr. Peebles said there should not be any affect on her property unless there was another general tax assessment.

A brief discussion centered on whether the site had completed the rezoning process. Mr. Ashley stated that the site was currently zoned R-1. The Planning Commission recommended rezoning to B-1, but the request for final approval was not brought before the City Council.

A motion was made by Mr. Hubbard and seconded by Mr. Cummings to approve the request for a Use Variance to allow a barber/style shop in an R-1, Single-Family Residential District subject to the following conditions:

1. placement of a 6' wooden privacy fence along the west property line;
2. placement of a letter in the file stating that a 6' wooden privacy fence will be erected along the south property line at such a time as that adjoining property to the south is developed;
3. reconfiguration of the access to provide either a 24' drive or a one-way circulation pattern, to be approved by the Traffic Engineering Department; and
4. full compliance with the Landscape and Tree Ordinance.

The motion carried unanimously.

5135

(Case #ZON2002-01871)

Quality Sign Company, Inc., (McConnell Automotive Corp., Owner)

3060 Dauphin Street

(North side of Dauphin Street, 750'+West of North Sage Avenue)

Sign Variance to allow the addition of a second freestanding sign; a maximum of one freestanding sign is allowed on a multi-tenant site with less than 601' of road frontage.

The plan illustrates the existing structures, signs, parking and landscaping.

Mr. Rick Nichols of Quality Sign Company, Inc. represented the applicant and stated that the purpose of this request was to replace a freestanding sign that was removed when the Cadillac dealership moved to another location.

Mr. Lee asked if the new sign would be the same size as the one removed.

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Mr. Nichols said it would be within 10 sq. ft. of the size of the other sign.

There was no one present in opposition.

It was noted that the original sign was removed because it was leased from General Motors, and that different manufacturers would not allow their brands to be advertised on a sign with others.

A motion was made by Mr. Cummings and seconded by Mr. Hubbard to approve the request for a Sign Variance to allow the addition of a second freestanding sign subject to the following condition:

1. the sign may not exceed the size of the previously removed sign.

The motion carried unanimously.

#5136

(Case #ZON2002-01942)

Bill Beavers

2759 Krietner Street

(South side of Krietner Street, 305'± East of Barksdale Drive East)

Side Yard Setback Variance to allow 24' x 21' bedroom/bathroom addition within 4.4' from the West (side) property line; a minimum side yard setback of 8' is required in an R-1, Single-Family Residential District.

The plan illustrates the existing structures and drive, along with the proposed addition under construction.

Mr. Mike Davis represented the applicant and explained that the subdivision within which the subject property is located, was constructed in the late 1950's and early 1960's. The Zoning Ordinance was not in place at the time of the construction. The purpose of the proposed addition of a bedroom and bath was to allow the applicant to care for an elderly aunt. The addition would be in line with the existing structure. A permit for the addition was obtained and was found to be too near the property line when inspected; construction was stopped, and it would be a financial hardship to try to relocate the addition.

Mr. Hubbard asked if additional utilities would be required.

Mr. Davis said the addition included a bathroom and would require plumbing utilizing existing utility services.

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 Side Yard Setback Variance to allow 24' x 21' bedroom/bathroom addition within 4.4' from the West (side) property line.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Lawler stated that the appeal involving the denial of a parking lot for Bloomers Florist was scheduled to be heard in October.

APPROVED: October 7, 2002

/s/ Chairman of the Board

/rm