

BOARD OF ZONING ADJUSTMENT

RESULTS AGENDA

April 4, 2022 - 2:00 P.M.

Auditorium, Government Plaza

MEMBERS PRESENT

William L. Guess, *Chairman*
Sanford Davis, *Vice Chairman*
Adam Metcalf
Lewis Golden
Jeremy B. Milling
Gregory Morris, Sr.

STAFF PRESENT

Doug Anderson, *Staff Attorney*
Margaret Pappas, *Deputy Director of Planning and Zoning*
Marie York, *Principal Planner, II*
Bert Hoffman, *Long Range Planner*
Victoria Burch, *Planning and Zoning*
George Davis, *City Engineer*

III. ADOPTION OF THE AGENDA:

Motion by Adam Metcalfe. Second by Greg Morris. **Adopted.**

IV. PUBLIC HEARINGS:

1. #6446/4514

(Case #BOA-001954-2022)

Anna C. Ferry

5288 Todd Acres Drive

(Northwest corner of Todd Acres Drive and Todd Boulevard).

Use Variance to allow an accessory dwelling unit in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow an accessory dwelling unit in an R-1, Single-Family Residential District.

Council District 4

After discussion, the Board allowed the applicant to withdraw the application.

Withdrawn.

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2. #6448

(Case #BOA-001968-2022)

Qui Le (Gerald Byrd, Agent)

1458 Duval Street

(Block bounded by Duval Street, Michigan Avenue, Grove Street and Partridge Street).

Rear Street Rear Yard Setback Variance to allow a dumpster over three feet high within the required 25-foot rear street rear yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow structures over three feet high within the required 25-foot rear street rear yard setback in an R-1, Single-Family Residential District.

Council District 2

Motion to approve by Jeremy Milling. Second by Lewis Golden. **Approved.**

After discussion, the Board determined the following Findings of Fact for Approval:

- 1) Approving the variance will not be contrary to the public interest because the existing restaurant has been there for over 35 years with no complaints from the neighborhood;**
- 2) Special conditions were illustrated such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship as there is no part of the site that is located outside of required setbacks; and**
- 3) The spirit of the chapter shall be observed, and substantial justice shall be done to the surrounding neighborhood by granting the variance.**

The approval is subject to the following conditions:

- 1) Obtain associated building permits; and**
- 2) Full compliance with all municipal codes and ordinances.**

3. #6449

(Case #BOA-001974-2022)

Lorenzo Martin

2908 Old Shell Road

(North side of Old Shell Road, 120'± West of Union Avenue, extending to the Southeast corner of Yew Street and Hemley Avenue).

Side Street Side Yard and Rear Street Rear Yard Setback Variances to allow a structure within the required side street side yard and rear street rear yard setbacks in a B-3, Community Business District; the Zoning Ordinance requires full compliance with the side street side yard and rear street rear yard setbacks for structures in a B-3, Community Business District.

Council District 1

Motion to approve by William Guess. Second by Adam Metcalfe. **Approved/Denied.**

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Hemley Avenue. After discussion, the Board determined the following Findings of Fact for Approval of the request for a Side Street, Side Yard Setback Variance on in a B-3, Community Business District:

- 1) Approving the variance request will not be contrary to the public interest due to the fact that only minimal vehicular traffic would be possible along the side street;
- 2) Special conditions exist, such as the fact that the side street dead-ends along the subject site, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed, and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance because the requested reduced setback would have no impact on traffic and visibility along the side street.

The approval is subject to the following conditions:

- 1) subject to the Engineering comments: *(1. The proposed improvements will require a Land Disturbance Permit. 2. Any and all proposed land disturbing activity within the property will need to be submitted for review and be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.); and*
- 2) full compliance with all municipal codes and ordinances.

Yew Street. After discussion, the Board determined the following Findings of Fact for Denial of the request for a Rear Street, Rear Yard Setback Variance in a B-3, Community Business District:

- 1) Approving the variance will be contrary to the public interest in that it will not allow for the normal right-of-way dedication and minimum building setback requirements of a pending subdivision;
- 2) Special conditions do not exist such as site area constraints in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship since sufficient area exists within the proposed parking lot to orient the building design to meet the required rear street, rear yard setback and maintain the proposed building square footage and required parking; and,
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the surrounding neighborhood by granting the variance because necessary rear street right-of-way dedication and building setback compliance will not be achieved.

4. #6450
(Case #BOA-001987-2022)
Deidra Craig
1654 Woodley Road

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(East side of Woodley Road, 75'± North of Mercedes Road).

Use Variance to allow a maximum of ten (10) children in a home-based child day care business with outside employees in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow more than six (6) children in a home-based child day care business and requires all employees to live at the location in an R-1, Single-Family Residential District.

Council District 1

**Motion to approve by Greg Morris. Second by Sanford Davis. Failed to pass.
Lewis Golden and Jeremy Milling opposed.**

After discussion, the motion to approve the request failed due to a lack of affirmative votes. Thus, the application was denied.

~~Board determined the following Findings of Fact for Denial:~~

- ~~1) Approving the variance will be contrary to the public interest in that it will allow commercial intrusion into an established residential neighborhood;~~
- ~~2) Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship since a home-based day care business is operated on the property in compliance with the Zoning Ordinance; and,~~
- ~~3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the surrounding properties are zoned and utilized residentially.~~

5. #6451

(Case #BOA-001989-2022)

Ricciardone Properties, LLC (David Shumer, Agent)

5050 Moffett Road

(North side of Moffett Road, 490'± West of Gash Lane).

Front Landscape Area Variance to allow reduced front landscaping area in a B-2, Neighborhood Business District; the Zoning Ordinance requires full compliance with the front landscaping area requirement in a B-2, Neighborhood Business District.

Council District 1

Motion to approve by Adam Metcalfe. Second by Greg Morris. **Approved.**

After discussion, the Board determined the following Findings of Fact for Approval:

- 1) Approving the variance request will not be contrary to the public interest due to the fact that only about one-fourth of the over-all site is readily developable due to topography and easements;**
- 2) Special conditions exist for the property, such as the fact that the water main easement and topographical constraints restrict the size of the area which can be**

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- developed, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) **The spirit of the chapter shall be observed, and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance because the remaining undeveloped portion of the over-all site will compensate for landscape area lacking within the front area of the site.**

The approval is subject to the following condition:

- 1) **full compliance with all municipal codes and ordinances.**

V. OTHER BUSINESS: