

Zoning Board of Adjustment Report

Meeting Date: 1/28/08

(*** These notes are NOT official minutes. They are notes taken by a private citizen and are not to be used or relied on as an official document.***) Please excuse any errors/omissions in this report. Any that exist are my own and were unintentional.

The Zoning Board of Adjustment consists of 5 board members and two supernumerary members. The supernumerary members are called upon if one of the 5 board members can't attend the meeting or if one of the board members has a conflict of interest. The board members in attendance were Joe Romanek, John Sheffield (Chair), Louis Barnett, Arthur McLin and Dana Keith.

Prior to the start of the board meeting, a city employee announced to the crowd that anyone who wished to speak would have to sign up prior to the start of the board meeting. It was also noted that there would be a time limit for each speaker. The ZBA board has never addressed this issue so I was curious as to why the procedure was put in place. I asked the city employee why signing up to speak was now required and he said it would make the process more orderly and would prevent the meetings from going on until midnight. Of course, the ZBA meeting has never lasted that long in the more than 2 years that I have been attending. My initial reaction to this change is that this will prevent the public from having the opportunity to speak for or against a given petition. If an individual shows up after the start of the meeting and thus doesn't sign up, they will have missed their opportunity to speak. If a person did not intend to speak but an issue arises during the meeting that compels them to speak... they will not have the opportunity because they did not sign up to speak in advance. Luckily, the chairman of the ZBA did not allow this new procedure to prevent concerned citizens from speaking as you will see later in this report. We should all be thankful that Chairman Sheffield is a reasonable man.

John Sheffield called the meeting to order and explained to those in attendance how the meeting would proceed. The following are the petitions that were brought before the board.

ZBA-75-07: BF Services, Inc. petitions for a Special Exception to allow the construction of an RV park on the south side of 31st Street and east of I-359. Zoned MH, proposed rezoning to BH. (Council District 2)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District2.pdf>)

CONTINUED FROM THE NOV. MEETING

WITHDRAWN

ZBA-77-07: Chad Gore/Mainstreet Builders petitions for a variance from setback requirements to allow the construction of a single family dwelling at 1116 – 28th Street. Zoned R-3. (Council District 2)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District2.pdf>)

CONTINUED FROM THE NOV. MEETING

Issues: Recall that this vacant lot has an old metal storage shed on the property which will be torn down to make way for a new 1100 sq ft home. The home needs rear and front setback variances. The setbacks are in line with the other homes on the street. Last month it was discovered that the petitioner was not an agent for the owner. The owner, Mary Jewell Ramey, was not present. This petition had to be continued for this reason.

New information: The current setback requirements would only allow for a very narrow building. The proposed home would be in line with the other homes on the street.

Opposition from the floor: None

Vote: 5 to 0 in favor

ZBA-83-07: Tommy Ray Bozeman petitions for variances from minimum setback requirements and ground coverage ratio standards to allow the construction of an addition to an existing single-family dwelling at 202 Queen City Avenue. Zoned R-1H. (Council District 4)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District4.pdf>)

Issues: Mr. Bozeman had his lawyer speak for him. Pictures of the proposed addition include a **4 car garage with an apartment on top as well as a pool and a pool house.** The concerns of the 3rd Street property owners include scale and character of the addition. The lawyer said that Mr. Bozeman's home is not on 3rd Street... but on Queen City Avenue. (*Actually, the home is on the corner of 3rd Street and Queen City Avenue*). The lawyer indicated that the Queen City Ave. homes are much larger and the addition to the Bozeman home would fit in with the others on that street. He pointed out that none of the homes are set back 35 feet. He said that Mr. Bozeman met with 3 of the neighbors from 3rd Street including the president of their neighborhood organization. Mr. Bozeman claims that during that meeting this group of people had no problem with his addition. Chairman Sheffield asked if Mr. Bozeman met with anyone else in the historic district... he had not and Mr. Bozeman stood up and said nobody has asked to speak with him. It was also noted that his addition had approval from the historic commission.

Opposition from the floor: There was plenty of opposition. The highlights are as follows:

Rebecca Rothman (3rd street homeowner and registered architect in the state of Alabama) presented a Power Point presentation regarding all of the issues that concerned her and her neighbors. She pointed out that when she met with Mr. Bozeman she told him that she would have to go back to her neighbors to get their feelings on his addition. She said she did not agree to anything in their meeting. She pointed out that Mr. Bozeman has a very large lot and that there would be no need for variances if he would build something that was of reasonable scale.

As she continued, John McConnell pointed out that she had only 3 minutes to left to speak. She noted that she was not told she would have this time limit when she received approval to do a presentation. It was at this time that Mr. Sheffield waived the time limit and told Rebecca

that she would be able to finish her presentation. He noted that this issue was very important and everyone involved would have the opportunity to have their say.

Mrs. Rothman continued and pointed out problems associated with the accessory structure – such as the apartment above. Mr. McConnell pointed out that Mr. Bozeman would not be able to get a building permit for the apartment above the 4-car garage. She asked if the petitioner would have to resubmit a new plan and there was some comment by John McConnell about resubmitting a plan regarding the interior. However, why would Mr. Bozeman need a two story 4-car garage if he is not allowed to put the apartment above? It seems like the entire garage would have to be reworked.

Mrs. Rothman pointed out problems regarding ADA compliance associated with the sidewalk in front of the garage. She noted drainage problems this neighborhood has and how the ground coverage of the new structure would negatively impact an already problematic sewage system. She discussed the curb cut, the fence and the size of the garage and how it would impact the next door neighbor on 3rd street.

Mrs. Rothman presented drawing to scale which represented Mr. Bozeman's addition and how it compared to the home next door. There was also some discussion about the timing of all of the construction. Ms. Rothman said that the neighbors would want a fence built as soon as the pool went in because there are small children in the neighborhood.

Ted Major, a resident from #12 Guildswood, indicated that he was present on behalf of his neighborhood association and he noted that they were against this petition. He also noted that the petitioner has not addressed hardship. The petitioner has a huge lot and it seems to the speaker that Mr. Bozeman could build something really nice that was within city ordinances.

A couple also spoke (the Kazer's?) saying that they were at the historic preservation meeting and they did not speak up because they were not shown a plan for this building that was to scale. Had they known the size of the garage in comparison to the home and the other homes on the street, they would have protested. It sounds like this couple owns the home that is next door to Mr. Bozeman's home on 3rd Street. They talked about the garage casting a shadow on their property. They believe the scale of the addition is overpowering. They said that Mr. Bozeman has been a good neighbor but this is not about him... it is about the neighborhood and how the addition will impact everyone.

Many other people signed up to speak but chose not to say anything more when their time came. Mr. Sheffield then offered an opportunity to speak to anyone who had not signed up. It was at this time that Donald Brown, chairman of the OCA, spoke. He said that the OCA hasn't met on this issue and they have not taken a position on the issue. He wanted to clarify this since the OCA's name had been brought up in the discussions.

Michelle Yuro, a representative from Sherwood Drive, stood up and said that their neighborhood does not support this petition. She indicated that it appears that there are many more than two variance issues associated with this property. She indicated that the City needs to protect the downtown neighborhoods and should not be approving variances such as this. This speaker was concerned about the apartment that is in the plans. It was noted again that the petitioner would not be able to get approval for an apartment above the garage... but it is clear

that everyone is still worried about it. Nobody wants an apartment built that could be rented out in the future. This property needs to remain a single family home.

Mr. Bozeman's lawyer then stood up and started to point out some of the other homes in the historic district that are in violation of city ordinances. Mr. Sheffield pointed out that many of these homes were grandfathered in because the ordinances were passed after these homes were built. He then suggested that before things get worse between the neighbors perhaps the groups that have concerns should all get together and talk. He suggested postponing the vote until everyone meets and he suggested that Mr. Brown of the OCA could be a mediator. After some discussion it was agreed by all parties that they would postpone this vote until next month.

POSTPONED UNTIL THE FEBRUARY MEETING

ZBA-84-07: Corey Houston petitions for a variance from minimum setback requirements to allow the construction of a new single-family dwelling at 2212 Short 18th Street. Zoned R-3. (Council District 1)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District1.pdf>)

Issues: This property is off of Fosters Ferry Road with no improved road access. The petitioner has received an easement from the City to be able to access his lot from a nearby street. This will allow him to drive across a small strip of city land to access his property. Technically, this is a corner lot so it requires two 30 foot setbacks.

Opposition from the floor: An adjacent property owner stepped forward to ask if the city easement was going to allow the petitioner to drive across his property. He was told that the easement was for city property only and that the petitioner would not be crossing his property. It was noted that the city legal department issued the easement which is on city property and that TDOT approved it. The adjacent property owner was concerned about traffic coming and going at the same time which might force them to drive on his property. It was pointed out that this was not going to be a road across the easement but rather a driveway that services only the house.

Vote: 5-0 in favor

ZBA-85-07: Mary Ann Hampton appeals the decision of the Zoning Officer concerning a driveway at 1411 Caplewood. Zoned R-3H. (Council District 4)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District4.pdf>)

Issues: The zoning officer's decision was that the brick pavers in front of this home were installed to be used as a driveway turnaround. The petitioner lives at 315 Caplewood drive and is appealing this decision stating that the brick "patio" was never intended to be used for a parking or driveway turnaround area. She knew the owners who installed the bricks pavers. She said that they used this space as an outdoor patio. She pointed out that a sidewalk bisects the patio. She pointed out that the renter who has been parking on the brick pavers has damaged a retaining wall because there really is no room to turn a car around in this space. This home has a very large 3 car carport at the rear of the property. Additionally, there appears to be plenty of space around the carport to park several cars... therefore, there should be no reason to park any vehicles in the front yard on the brick patio. She pointed out the ordinance prohibits parking in the front yard

and this patio is in the front yard and therefore parking is prohibited. This home is for sale and if the decision is upheld all future renters will be free to park in the front of the house which will hurt the neighborhood. The current owner has no variance allowing tenants to park in the front yard. The petitioner wants to have this ruling overturned so that they won't have problems with future owners.

Opposition from the floor: Mrs. Betty Stinson came forward in support of the petitioner. She said that she worked for Mrs. Summersell (the original homeowner who had the brick pavers installed). She indicated that visitors were forbidden to park on these pavers and were asked by Mrs. Summersell to park at the rear of her home when they came to visit. Mr. Hampton also came forward in support of the petitioner. He grew up on that street and doesn't remember anyone parking in the front of the home until the recent tenants moved in. He stated that the city should uphold the ordinance they put in place which prohibits people from parking in the front yard.

he property owner came forward (Ms. Willis) and she indicated that her sons live in the house and have spent time and money restoring the home. She said that the tenant did not break any of the brick pavers nor did he damage the wall. She said that they only use this as overflow parking and that there is plenty of room for a small vehicle.

Mr. Sheffield noted that a Yes vote would uphold the city's zoning decision and that a No vote would be in support of the petitioner and would overturn the zoning officer's decision.

Vote: 5 no votes - the appeal was granted and the decision of the zoning officer was overturned.

ZBA-1-08: Johnie Killingsworth petitions for a variance from minimum lot area requirements to allow the construction of a two-family dwelling at 731-13th Street. Zoned R-4U. (Council District 4)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District4.pdf>)

Issues: This property is on the corner of 13th Street and 8th Avenue. The property currently has a large single family home and detached garage. The petitioner wants to build a two story brick duplex (over/under style). Two family dwellings are allowed as long as the lot is 7500 square feet. This lot is 7000 square feet. The proposed construction will be similar to the buildings across the street and will have ball and chains around the front as well as parking at the rear of the property which is accessed from an alleyway. The old structures will be coming down.

Opposition from the floor: None

Vote: 5-0 in favor

ZBA-2-08: Tuscaloosa Credit Union petitions for an extension of a previously granted Special Exception to allow a modular building to remain at 2929 Skyland Boulevard East. Zoned BH. (Council District 6)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District6.pdf>)

Issues: The original Special Exception was granted way back in May of 2005. It was granted for one year. Clearly, this issue should have been addressed 2 years ago. Mr. Henderson spoke on behalf of the Tuscaloosa Credit Union. He claimed the original variance was requested for 10

years and that he was under the impression that they received a 3 year variance that could be reappraised each year. Mr. Sheffield produced the letter that was sent to the original petitioner that clearly stated the petition was granted for only one year. Mr. Sheffield also noted that these exceptions are not permanent. Mr. Henderson pointed out that the building wasn't like most modular buildings. It was built on footers with concrete risers. It was inspected by the city and meets all 2003 building codes. They have nice paved parking as well as ADA ramps and parking. The building looks permanently affixed to the ground and has a stucco appearance. Mr. Romanek pointed out again that all these things are good but that this special exception was for one year only and he asked if the petitioner had plans to build a permanent structure. The president of the credit union came up and said that they have plans to split their lot and build the permanent credit union building on one side and that they have a possible tenant for the modular building! He also mentioned that they really want this extension granted for 3 more years. He said it would be financially difficult to remove the building at this point but they would accept a one year extension. After some discussion by the board, the board indicated that they were voting on a one year extension and that they would revisit an additional one year extension if the petitioners made a good faith effort to start the permanent structure. Otherwise, the modular building would have to be removed. In any case, it sounds like the modular building was going to have to be removed which would prevent the petitioner from renting that space.

Opposition from the floor: None

Vote: 4 to 1 in favor of a one year extension.

ZBA-3-08: Bayou Seafood petitions for a variance from minimum setback requirements to allow the construction of a storage building at 823 Hargrove Road East. Zoned BN. (Council District 6)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District6.pdf>)

Issues: This restaurant is across from Snow Hinton Park on Hargrove Road. The ordinance requires that the building be 10 feet off of the side and rear lot lines. The building (which is already under construction I might add... it is shown in the presentation) is only 1.5 feet off of the property line. The adjacent residential property is unbuildable because it is only a 20 foot wide strip of land. The petitioner will be putting a freezer in the building and it will be used for storage. No lighting will be added so there should be minimal impact on the nearby neighborhood.

Opposition from the floor: None

Vote: 5-0 in favor.

ZBA-4-08: Trinity Presbyterian Church petitions for a variance from the off-street parking development standards to allow temporary gravel parking on Lots 461 and 462 of the Townes of Northriver Planned Unit Development. Zoned BNS & R-1; R-1 portion pending rezoning to BNS. (Council District 3)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District3.pdf>)

Issues: Mr. Lunsford spoke on behalf of the petitioner. They do not want to pave and stripe the onsite parking at this time. They are building the fellowship hall which is far away from the

planned parking for the sanctuary. Instead they want to pave and stripe the parking associated with the retail space that is adjacent to their fellowship hall location. This parking area is not on their property but they have a cross-parking agreement with the Townes of Northriver Development. They will put a gravel parking area where the sanctuary will eventually be built. They don't want to put in the permanent parking on that location because they will eventually have to tear it up in order to build the sanctuary. There was a lot of discussion about what the planned unit development (PUD) required. John McConnell said that the PUD requires that you do ALL the land improvements up front. The petitioner is asking for a waiver on the parking improvements at this time. However, they will complete the parking which is off of their property. There was a vote and then an amendment to the vote... Ultimately the board agreed to vote to temporarily waive the parking until the main sanctuary construction is started. Once that building is started the petitioner must complete the permanent parking area on their property as per the PUD.

Opposition from the floor: None

Vote: 4 to 1 in favor.

ZBA-5-08: Trudier Harris petitions for variances from ground coverage ratio standards and minimum setback requirements to allow the construction of a single-family dwelling at 4703-23rd street. Zoned R-2. (Council District 1)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District1.pdf>)

Issues: This is a vacant lot. The proposed home would be 19 feet from the rear lot line and 5 feet from the east property line. The ordinance requires 35 feet and 9 feet respectively. The ground coverage is approximately 43% - more than the required 30%. The proposed home does not encroach in the front setback. The footprint is similar to others in the neighborhood. It is a one story ranch style home.

Opposition from the floor: One of the neighbors spoke in favor of the planned construction.

Vote: 5-0 in favor.

ZBA-6-08: Excell Communications on behalf of T-Mobile South, LLC petitions for a special exception to allow the construction of a new cellular tower and a variance from height restrictions for said tower at 2300U Veterans Memorial Parkway (American Christian Academy Ball Fields). Zoned R-3. (Council District 5)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District5.pdf>)

Issues: The proposed Cell tower will be a 120 flag pole tower which will help fill in a gap in cell phone coverage in that area. The petitioner pointed out that they first tried to get on existing structures but there are no towers within 1 mile of this location. There are 4 towers within 2 miles and they are on all of those towers. The pole will fly a flag 24 hours a day. They will meet the landscaping requirements. They have a lease with ACA and they will allow co-locators. The tower will look just like a flag pole according to the petitioner and adding other cell providers will not change the appearance of the pole. The location of the pole will be right off of 15th street

between the two athletic fields at ACA. This location is away from the homes but the elevation is at a low point which is why they need an extra 20 feet.

Opposition from the floor: A representative from ACA spoke in favor of the flag pole. They were planning on putting one up so this seemed like a good fit. Steve Rumsey was concerned about the lighting and the nearby neighborhood. The lighting will point straight up at the flag and is a requirement by the government.

Vote: 5-0 in favor

ZBA-7-08: Darren Hamrick petitions for a variance from height restrictions to allow the construction of a freestanding sign on Lot 2 of the Sher-wil No. 3 Subdivision. Zoned BH. (Council District 6)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District6.pdf>)

Issues: This location is off of highway 59/20 at the Skyland exit near the Crackerbarrel restaurant. It is the site of a new hotel. The petitioner wants to put up a sign that is 120 feet tall and 100 feet above the road grade. The ordinance states that the sign can't be more that 60Ft above the road grade (Highway 59/20). This is a 40 ft variance. Mr. Hamric with Sain & Associates (civil engineers) said that the variance is due to existing trees on the DOT right of way. DOT was contacted regarding the trees and they said they could not be removed due to conservation issues (THANK GOODNESS!!!). The planned sign will be visible from the interstate but will still be below the Crackerbarrel sign. The height is needed due to the trees and topography (it is in a low spot). Stan Pate is the owner of the property and he encouraged the petitioner to move the sign away from the neighborhood at the rear of the lot to prevent lighting issues. However, moving the sign away from the homes put it in a low spot which requires a variance. If they build the sign near the neighborhood they don't have to get a variance. This move is good for the neighbors so they are requesting the variance. The builder is willing to bear the cost of the taller sign. The sign will be back lit so will not be as bright as some old signs. They can't co-locate their sign on the Crackerbarrel sign.

Opposition from the floor: None

Vote: 5-0 yes

I found it interesting that several people specifically talked about protecting neighborhoods at this meeting. That is good news.

ADDITIONAL BUSINESS

There was an extension request of a previously granted variance (ZBA-68-07) at 810 Monmouth Drive. (See the October 22, 2007 ZBA meeting notes) The petitioner hasn't gotten his building permit for the garage addition and the 90 days has lapsed. There are no changes. The board voted to extend this variance for 120 days.

Vote: 5-0 in favor

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The board voted John Sheffield as Chairman and Dana Keith as Vice-Chair.