

Zoning Board of Adjustment Report
Meeting Date: 1/23/2007

(*** 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 (Chair), John Sheffield, John Crummie, James West and Dana Keith.

Joe Romanek 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-73-06: A.E. and Penny Joiner petition for a variance from the residential occupancy restrictions to allow an extension of the deadline to register a property in an historic district as a legal nonconforming use to allow (3) unrelated people to reside together in a single dwelling unit at 61 The Downs. Zoned R-1H (Council District 7) (<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District7.pdf>)

(CONTINUED FROM LAST MONTH)

Issues: Recall the following from last month's report... This petition is being continued until the city attorneys can look into the legality of this ordinance.

NEW INFORMATION – CONTINUED UNTIL NEXT MONTH

ZBA-1-07: Lunsford, Goode & Price petition for a Special Exception to allow a six (6) foot fence within a required front yard at 2301 Veterans Memorial Parkway (Summit Condominiums). Zoned RMF-1 (Council District 6) (<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District6.pdf>)

Issues: These condos are across 15th street from American Christian Academy. The developers want to put up a fence that is right on the property line in some areas and as close as 10 feet from the property line in other areas. In some locations the fence is necessary because the developers have put in very tall retaining walls. The fence will prevent people from falling from these walls to the street or sidewalk below. The developers had not spoken with the property owners in the area. Their neighbors did, however, write a letter to the board complaining about several items including the construction being too close to the public road. TDOT was concerned about line of sight issues and asked that the fencing plan be reviewed and approved BEFORE it is built. It sounded as if a fence was already partially built and had to be taken down... this was unclear. The developer claimed that TDOT told them to install a fence and curbing. The petitioner indicated that 1/3rd to 1/2 of the property had large drop offs due to retaining walls. There was no mention about who approved the retaining walls and if they are also the cause of some line of site problems – if not safety problems. In any case, it now appears that the fencing will have to go up for public safety reasons.

Opposition from the floor: Other than the letter from the neighbors noted above – there was no opposition from the floor.

Vote: 5-0 in favor. The approval is contingent upon TDOT approval of the fencing plan.

ZBA-2-07: Power and Rubber Supply petitions for a variance from setback requirements to allow an addition to the existing building at 3740 Resource Drive. Zoned ML (Council District 2)

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

Issues: This property is at the end of Resource Drive and West of I-359. At the closest point, the addition will be about 10 feet from the property line. The addition would be built in an area that is currently being used for parking. Parking appeared to be the greatest concern to the Board. The representative for the petitioner was not able to answer very many of the questions asked by the Board. He did not know if there were plans to increase the number of employees. He did not know exactly what the addition was going to be used for but assumed that the space would be additional warehouse space. Parking was not addressed in the site plan. The board was concerned that the addition would require increased parking needs for both employees and customers and there was a potential for this petitioner to have to request a parking variance.

Opposition from the floor: None

Vote: 4-1 in favor. The approval is contingent upon the approval of a parking plan prior to the construction of the addition.

ZBA-3-07: Wright Hurd Properties petitions for an extension of a previously granted temporary Special Exception to allow the operation of a barber shop at 928-25th Avenue East. Zoned BGO. (Council District 5)

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

Issues: This petition originally came before the board in June – see the June 27th Board of Adjustment report. During the six month test period there have been no complaints brought forward from the neighbors on either the parking issue or the building's use.

Opposition from the floor: None

Vote: 5-0 in favor. The approval is for this business and petitioner only.

ZBA-4-07: Dan Marlar Investments petitions for a Special Exception to allow a reduction in the number of required off-street parking spaces on a currently undeveloped parcel located on the south side of 13th street East and adjacent to and east of Wood Square Shopping Center. Zoned BGO (BN zoning pending). (Council District 5)

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

Issues: One of the issues on this petition has to do with the zoning of the property in question. Apparently, there are several lots that are being combined for this project. The majority of the property is now zoned BN – however a small part is still zoned differently. The size of the building they are planning on putting on the property requires 126 parking spaces. They only have room for 80 spaces. The building is going to be used as a World's Gym – open 24 hours a day. The petitioner gave the board some estimates of what he thought would be adequate parking. However, TDOT said there was insufficient info available to determine if his estimates were accurate. TDOT's comments included the statement – “too much building for too little land”. The board

noted that the building plan allowed for no green space on the property. It was only after all of this discussion that the petitioner indicated that the board was looking at an old plan. The petitioner is no longer going to build a structure with a 5,000 square ft. foot print. The new plan is for a building with a 12,000 square ft. foot print. This reduces the required parking spaces to 114. However, they are still 34 spaces short.

Opposition from the floor: None

Vote: 5-0 in favor. The approval is subject to all planning and zoning issues (zoning cleared up and a resurvey to make it one lot). Also the approval is for this petitioner and this business only.

ZBA-5-07: CSS Mullins, LLC petitions for variances from setback requirements to allow the construction of a single-family dwelling at 509 – Kicker Road. Zoned R-4. (Council District 5)

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

Issues: The petitioner wants to build a home on a lot that is currently vacant. It appears that a portion of the front of the home will be within the required setback area. There is some discussion about a 90 foot right of way issue on this property which may be the cause of the hardship.

Opposition from the floor: None

Vote: 5-0 in favor.

ZBA-6-07: CSS Mullins, LLC petitions for variances from setback requirements and minimum lot area standards to allow the Resurvey of Lots 9 & 10, Block 439, T.C.C. & L. Survey located on the northeast corner of 28th Avenue and 20th Street. Zoned R-3. (Council District 2)

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

Issues: The property in question is across 20th street from a church parking lot. Four individual parcels of land are being resurveyed into two parcels. There will be one home on each parcel – the homes are pre-existing. One of the homes is going through extensive renovation and expansion and it will have to meet all new building code standards. Even with the resurvey – the home requires a setback and minimum lot area variance. All of the homes in this neighborhood are non-conforming because they were built before the zoning standards were put in place.

Opposition from the floor: None

Vote: 5-0 in favor.

ZBA-7-07: **WITHDRAWN**

ZBA-8-07: Joseph James petitions for variances from minimum lot width standards, minimum lot area standards, and setback requirements to allow the subdivision of a single lot containing two dwelling units at 3839 & 3843 14th Place East. Zoned R-3. (Council District 5)

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

Issues: These two homes are on a triangular shaped piece of property on the south side of 14th street. The property is behind Brown's body shop (another non-conforming use

property). It appears that two homes were built on one piece of property. In order to subdivide, variances are needed because one of the properties would not meet the front set back requirements or minimum lot area and width standards. The owner wants to split the lots so that each home can be valued on its own and so that one of them can be refinanced. He is forced to split the lots because banks will only refinance based on the value of one home on the lot. One home is not valuable enough for him to take advantage of the equity built up in both homes.

Opposition from the floor: None

Vote: 5-0 in favor.

ZBA-9-07: Andress & Caruthers Properties, LLC petitions for variances from setback and height restrictions to allow the construction of a condominium complex at 1401 6th Street. Zoned RMF-2U. (Council District 4)

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

Issues: This property is on the southwest corner of 14th avenue and 6th street. Recall that this petition has already come before the board – see the August 22, 2006 and September 26, 2006 board of adjustment reports. In August, the vote was postponed until a traffic feasibility study could be performed by TDOT. It appears that all properties in this area are rental. In September the board voted 3-2 against the petition because the developers did not appear to attempt to design a building that better suited the space available on the lot. It appeared that the developers were trying to put as much building on the lot as was physically possible without much regard to the setback requirements. The board did not think this was a hardship case.

NEW INFORMATION: The proposed complex is still an eight unit condo, 2 bedrooms in each condo with parking beneath. Currently the property has a building with six – one bedroom units. The developers need front and side setback variances in order to build the condo. The developer indicated that many of the buildings in this area did not meet the setback requirements. The condos appear to be 3 story units with parking beneath which forces the petitioner to request a variance on height restrictions too. The open green space issue has still not been addressed. The developer proposes that the deck on the upper floors of the building is the open green space. It did not appear to me that any significant changes were made since the last time this petitioner came before the board.

Opposition from the floor: None

Vote: 3-2 against.

ZBA-10-07: Derrick Dunning petitions for a Special Exception to allow a home occupation (automobile upholstery) at 840 Clinton Drive. Zoned R-2. (Council District 1)

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

Issues: This property is located off of country club drive. The work will be performed in an accessory structure behind the home. The structure can't be seen from the road. It is a one person operation. The petitioner specializes in automobile interior seat restoration. He goes to his customer's homes and takes the seats and door panels out of the case and loads them in his truck for delivery to his shop. The petitioner is aware of the home occupation rules (see chapter 24, Article 1, Section 24-5 of the municipal code). TDOT recommended that there can be no more than two vehicles being serviced at one time and

that no vehicles can be parked or stored on the public right of way. The petitioner has spoken with his neighbors on the east side and across the street and there was no opposition on file.

Opposition from the floor: None

Vote: 5-0 in favor. The approval is with the condition that the petitioner complies with all home occupation guidelines and follows TDOT recommendations.

ZBA-11-07: Michael Sadberry petitions for a special exception to reduce the number of required off-street parking spaces at 3515 McGee Road. Zoned BN. (Council District 6) (<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District6.pdf>)

Issues: This property is off of Skyland Blvd. on McGee Road – across Skyland from Jay Bird Road. The existing warehouse was an indoor skateboard park that closed several years ago. The petitioner wants to reopen the facility. The building requires 40 parking spaces. The petitioner is proposing 25 parking spaces which is an increase from the 10 parking spaces that currently exist. The petitioner noted that 70-80% of the skateboarders are children under 16 who have their parents drop them off at the skate park. This is the main reason he does not believe he will need the 40 required parking spaces. It was noted that there is plenty of land available to put in the additional parking if it becomes necessary or if it is ultimately required by TDOT. The skate park will be open from 5 until 9 pm in the evening on week days and from 5 until 10 pm on weekends. TDOT is going to look at the site development plan.

Opposition from the floor: None

Vote: 5-0 in favor. The approval is limited to this petitioner and for this business only and the parking plan has to have the approval of TDOT.

ZBA-12-07: Alabama Power Company petitions for a special exception to allow the construction of an electrical power substation at the northeast corner of 23rd Avenue and 4th Street. Zoned BC. (Council District 1)

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

Issues: This property is located next to both the downtown Alabama Power offices and the adjacent existing substation. The need for this new substation is due to the current and planned future developments in the Tuscaloosa City area. The new substation will allow Alabama Power to eliminate 3 existing substations that are all very old. The new structure will meet all current environmental regulations which the three old substations do not meet. The proposal includes a privacy fence and Leyland Cypress trees planted along the fence to further block the view of the substation. The construction plan appears to be a good fit with the downtown revitalization plan. If this petition is denied, it was noted that the only other lot on which Alabama Power could build this substation would be the one they own on Jack Warner Parkway near Decorator Warehouse. Aesthetically, this would be a less desirable location.

Opposition from the floor: None

Vote: 5-0 in favor.

ZBA-13-07: William Lloyd petitions for a special exception to allow the construction of a solid brick wall within a required front yard at 25 Audubon Place. Zoned R-3H. (Council District 4)

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

Issues: This petition was brought before the board in October – see the October 24, 2006 board of adjustment report. In October, this petition was denied because the plan was for a solid 6 ft. fence that could have caused some line of sight issues for vehicles backing out of the driveway. In addition there were some public right of way issues associated with the planned location of the fence.

NEW INFORMATION: The plan now shows the fence being built farther from the road, sidewalk and driveway. The fence will still be a solid masonry wall that has already been approved by the historic commission. The masonry will match the masonry on the home. TDOT's comments were again about the public right of way and line of sight issues. However, TDOT's issues can be addressed with some variation of the plan.

Opposition from the floor: None

Vote: 5-0 in favor. The approval is subject to the building plan being approved by TDOT.

ZBA-14-07: Herndon, Hicks, & Associates petitions for a special exception to reduce the number of required off-street parking spaces at 1105 Skyland Boulevard East (Valley Square Apartments). Zoned RMF-1. (Council District 7)

(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District7.pdf>)

Issues: This property is located behind the Wendy's and next to Sam's on Skyland Blvd. The apartments are going to be converted to condominiums. The subdivision regulations require that all zoning requirements are met. The apartments were built in 1989-1990 and were not in the city limits at the time they were built. The property was short 50 parking spaces at that time. There is no space available to provide additional parking. The petitioner claims that a variance was given when the apartments were brought into the city limits. Apparently, there is no record of this exception in the board of adjustment records which go back to 1959. The development includes 94 one bedroom apartments. The renovation will not change this number. It will remain 94 one bedroom condos – each with approx 740 square feet of living space. There is no assigned parking at the development. The petitioner said that they have not had any parking problems at this apartment complex.

Opposition from the floor: None

Vote: 4-1 in favor.

ZBA-15-07: Gary E. Sullivan petitions for a variance from setback requirements to allow the construction of an attached garage at 641 Petersburg Road. Zoned R-1. (Council District 3)

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

WITHDRAWN

ZBA-16-07: Townsend Honda petitions for a special exception to allow the use of modular offices at 3121 Skyland Boulevard East. Zoned BH. (Council District 6)

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

Issues: Townsend Honda has plans to renovate and expand their facility on Skyland Blvd. A modular building is needed to accommodate their sales offices during the construction. The construction will be done in two phases. The first phase will be to

expand their parking by using more of the land at the rear of the property. The second phase includes the renovation and expansion of the sales offices. It is during the second phase that they will need to put in the modular building. Hoar Construction is responsible for phase 2 and expects the renovation to last for 6 months. The whole project will take approximately 1 year to complete.

Opposition from the floor: None

Vote: 5-0 in favor. This special exception is for one year from the date of this approval. If the construction takes longer than they have estimated, they will have to come before the board to get an extension of this special exception.

ZBA-17-07: Alabama Excavating petitions for a use variance to allow the operation of an excavation/construction company at a property located on the east side of Garner Road and just west of the Peach Grove Subdivision. Zoned R-1. (Council District 6) (<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District6.pdf>)

Issues: The property in question has a single family home on it as well as a multi door garage building. The property is currently being used as a staging area for a construction company which is obviously not an approved use for an area zoned R-1. The neighbors in the adjoining neighborhood are opposed to rezoning the property to light industry. The neighbors are OK with the current use as long as the house remains residential. TDOT has a problem with loaded construction vehicles on the public road leading up to this property. The petitioner claims that 90% of the time his trucks are not loaded. The petitioner has agreed not to increase the size of this business and he is willing to give an equipment list to the city. He has agreed not to store any additional equipment on this property. He has agreed to leave the natural buffer of trees between his property and the adjoining neighborhood. The petitioner has no plans to subdivide this lot but the board noted that if he did it would have to be an R-1 subdivision. It was noted that this is a use variance and the petitioner has to show some hardship in order to receive approval on the variance.

Opposition from the floor: None – but the board noted that the petitioner has a meeting planned with the neighbors in the next couple of weeks which may be why they did not come to this meeting.

Vote: No vote – this petition has been continued until next month to allow Mr. Tant (the petitioner) to meet with the neighbors as planned.

ADDITIONAL BUSINESS

The board voted that the board of adjustment meetings will now be held on the 4th Monday of each month. They also amended the by-laws to say that it will cost \$500.00 per petitioner to call a special meeting of the board.