

Zoning Board of Adjustment Report
Meeting Date: 6/27/06
Report By: Lisa Rhiney

The Zoning Board of Adjustment consists of 5 board members and two supernumerary members who are called upon if one of the 5 board members can't attend the meeting. The board members in attendance on 6/27/06 were Dan Gibson (chair), Joe Romanek (Vice-Chair), John Sheffield, John Crummie and James West. There were approximately 50 other individuals in the room for this meeting.

As with the last meeting, Dan Gibson 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 on 6/27/06

ZBA-43-06: Wright/Hurd Properties, LLC petitions for a special exception to operate a barbershop at 928 25th Avenue East. Zoned BGO (council district 5 – map: <http://www.tuscaloosaneighborhoods.org/pdf/District5.pdf>). This is continued from last month.

Issues: Hurd submitted a one year lease agreement which allows for additional parking at locations across the street from the proposed barbershop. The barber shop will be open throughout the week but they claim that the majority of the business will be conducted on Saturday when the adjacent businesses are closed. The barbershop will be open 8-5 on weekdays and 8 until ? on Saturday. The barbers are part time – they all have other jobs. When the adjacent businesses are closed the barbershop will use their parking spaces. A condition set by the board is that if this business continues for more than one year, then the parking lease agreement must also be extended or the business will have to relocate. The board also said that this vote will be for a 6 month trial period.

Opposition from the floor: The board had a letter of opposition. This letter said that there is not enough parking for the current businesses on this street and opening this barbershop will make matters worse. The woman who wrote the letter was in the audience. She said that the other businesses are currently using this vacant property as overflow parking for their businesses. It does not make sense that this barbershop is claiming it will use their parking when the other businesses clearly do not have enough parking of their own. She also didn't think the barbershop would do most of its business on Saturday. There will be 4 barbers working and they will see on average 2 people per hour. Based on these numbers it will be necessary for patrons to park on the street.

Vote: 4 to 1 in favor. This is with the understanding that they will have to come back before the board in 6 months to ask for an extension – assuming the trial period goes smoothly.

ZBA-48-06: RHOC (a non-profit org) petitions for a Special Exception to operate a group home at 946 22nd Avenue East. Zoned R-3 (council district 5 – link to map above)

Issues: This is a group home that will house 3 children between the ages of 7 and 16. These children are referrals from the department of mental health. These children have some mental health issues such as Autism. There will be at least one full time staff

person with the children at all times. There will be times when there will be 2 adults supervising the children. The property is fenced. There will be no video surveillance of the property. The children will live at this location full time and will go to school in the area. This organization is working to try to give these children a safe living environment. The code states that this type of group home is not allowable in an R-1, R-2, or R-3 area. The vote will be on a use variance – not a special exception as indicated above.

Opposition from the floor: A woman who lives directly behind this home came forward in opposition. She has small children and had several issues regarding this group home being located in her neighborhood. She was concerned that this home would negatively impact the property values in the area. She was worried about the safety of the children in the home – she wasn't sure if the fence was enough to prevent the children from wandering off. She was concerned about the level of supervision given to 3 children who will have various mental health issues. Finally, she was concerned about how often children will be cycled through the home.

Vote: 1 to 4 against.

ZBA-49-06: WAR Construction petitions for a variance from setback requirements to allow the reconstruction of a building that recently burned at 912 29th Avenue. Zoned MG. (council district 1 – Map:

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

Issues: This property is next to the railroad tracks near a TDOT facility. All adjacent properties are zoned BN or MG. They will be adding a firewall on the east side of the property. The footprint of the new building will actually be smaller than the original building. They are moving the building away from the TDOT property line so they don't have to put a firewall on that side of the building too.

Opposition from the floor: None

Vote: 5 to 0 in favor.

ZBA-50-06: H & H Properties petitions for variances from building setbacks and density requirements for an existing apartment complex at 2231 Forest Lake Drive. Zoned R-4 and BN; the BN portion of the property is in the process of being rezoned to R-4. (council district 2 – map: <http://www.tuscaloosaneighborhoods.org/pdf/District2.pdf>)

Issues: The builder wants to convert two old apartment buildings into a condo complex. They are not going to tear down the current buildings. Rather, they are simply going to renovate the existing buildings. Phase 1 will change 28 1BR apartments into 14 two bedroom condos. The second phase will change 10 1BR apartments into 9 1BR condos. All changes to the outside of the building will be cosmetic in nature only. They are going to stripe the parking area. The board asked if the builder had spoken with the Forest Lake Neighborhood Association. There was no response to this that I could tell. The board also asked if this renovation was within the Forest Lake development plan. Bill Snowden (Dept. of Planning and Zoning) said that is was.

Opposition from the floor: One individual wanted to know how this would impact the property values of the adjacent residential property. The board said that they were not qualified to answer this question. However, it was said that if this property is cleaned up and improved it should help the property values in the area. I think the individual does

not want his property taxes to go up. This will be a problem for him if the property values in the area increase in any significant way due to the upgrade of the apartments. This person also wanted to know if this variance would allow for businesses to move into their area. The board said no. Apparently the planning commission is recommending that the property be rezoned from BN to R-4. This has not come before the city council yet... but this should happen shortly. Another individual was concerned about a possible fire hazard. The current property does not meet the fire code as it stands. The building is within 2.5 feet of his property line and yet the building has no fire wall. This individual wanted some assurance that the building – after renovation - would be up to code. The board said that the building will have to pass all inspection and fire code rules in order to be occupied.

Vote: 5 to 0 in favor.

ZBA-51-06: WITHDRAWN

ZBA-52-06: Linda Jones petitions for special exceptions to operate a motorcycle service shop and to reduce the number of required off-street parking spaces at 1423-22nd Avenue. Zoned BN. (council district 1 – for map, see link above)

Issues: This location is off of 15th street on 22nd Avenue about 100 Yards away from the new Shelby Park. This petition is for two separate items. First there is the parking issue. There are two buildings. Ms. Jones works by herself and there are no customers that come in and out of these buildings. She simply does paperwork and billing for the two businesses she is involved in. One business is the custom bike shop and the other business is Tuscaloosa Automotive (?) whose work site is at the Mercedes plant. The vote on the parking issue is with the condition that the parking area will have to be striped. The second issue is the petition to operate a motorcycle shop out of a building that is behind the two office buildings. Ms. Jones' company builds custom bikes. The motorcycles are upgraded with specialized parts. The business will be open from 8-5 on Monday through Friday. They will not be open on the weekends. There will be one mechanic who does the work. The mechanic will work in an insulated area. The board asked questions about the noise associated with the motorcycles. The vote on the motorcycle service shop is with the condition that any approval would be non-transferable.

Opposition from the floor: None

Vote: 5 to 0 in favor on the parking exception

1 to 4 against on the motorcycle service shop exception

ZBA-53-06: Pastor Darren Morgan of Macedonia Baptist Church petitions for a special exception to reduce the number of required off-street parking spaces and a variance to provide said parking spaces across a public right-of-way which is more than 40 ft. in width at 2704 30th Avenue. Zoned R-3 (council district 2 – map:

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

Issues: The church has purchased a vacant lot in the middle of a neighborhood. The vacant lot is in between two homes. The pictures show that it is well-kept neighborhood which is across 30th street from the church. The church has grown and it appears that they have continued to expand their church building but have not been expanding their

parking. The pastor indicated that this proposed parking area would only be used for Sunday overflow parking. The rest of the week they would close off the parking area with a gate. There are no sidewalks in the neighborhood and anybody parking in this area would have to walk through the neighborhood and across a busy 4-lane road to get to the church. Initially, the pastor seemed to indicate that he had the support of the homeowners in the neighborhood. There were a significant number of people in the room (20 or so) who appeared to support this petition.

Opposition from the floor: The individual whose home is next to this vacant lot had strong opposition to this petition. He said that there are 3 churches in the area and there are significant parking problems on Sundays. He does not think that the board should allow the church to ignore the parking ordinances and does not think they should give the church an exception to the ordinance just because they have outgrown their space. He pointed out that even with this vacant lot, the church will still be significantly short on parking. It was noted that the church was short 37 parking spaces. He was concerned that turning the lot next to him into a parking lot would devalue his property. He pointed out again and again that nobody would want a parking lot put in the middle of their neighborhood. The pastor said that they would address the additional parking problems by picking people up in their van so they wouldn't have to drive to church. I'm not sure anyone really thinks this would work.

Vote: 0 to 5 against.

ZBA-54-06: Lou Katzerman, on behalf of T-Mobile USA petitions for a special exception to allow the construction of a new cellular tower and variances from height and setback regulations for said tower at 113 25th Avenue East. Zoned R-1 (council district 5 – map: <http://www.tuscaloosaneighborhoods.org/pdf/District5.pdf>)

Issues: T-mobile has an area in Alberta City where they don't have adequate cell signals which causes dropped phone calls in the area. They showed lots of maps to explain the problem. They also said that their customers would not have 911 services in this area. They said that they try to piggy back on other cell towers or tall buildings but they claim there is no suitable building on which they can co-locate. They tried to find commercial property and wooded property to do this on but again had no luck. They argued that putting up this 150 ft tower next to an Alberta City residential area was their only choice.

Opposition from the floor: There was a lot of opposition. It was pointed out that this is an industrial complex within a stone's throw of 25th avenue. 25th avenue is scheduled to be widened and beautified as part of the beautification plan in Alberta City. It was noted that it didn't make sense to put this cell tower in this location because it conflicted with this plan. Apparently, a church owns the property that the T-mobile wants to put this tower on. Mr. Griffin, an Alberta city resident, said that the church was in financial trouble and leased the property to T-mobile so they would have some revenue. It was also noted that this is a huge tower. It will be surrounded by razor wire and will be very visible in a strictly residential neighborhood. The T-mobile representatives were asked why Cingular and Verizon don't have a problem with dropped calls in the area and why they don't just co-locate with them. The only response was that they were not able to find a suitable location to co-locate. Another person brought up health and safety issues related to the radio frequency microwave radiation associated with cell phone tower transmissions. Problems such as cancer, leukemia, headaches, and memory problems

were brought up. T-mobile responded by saying that a US court said that you can't use aesthetics or health effects to prevent someone from putting up a cell tower. As long as they meet the transmission standards of the FCC... we shouldn't worry about the health issues. (This was interesting... first they try to scare us by saying people won't be able to call 911 – then they say don't worry about the well-documented health problems associated with living so close to a cell tower) The T-mobile representative noted that the microwave radiation was no higher than that found in your microwave oven. A person in opposition pointed out that your microwave oven isn't on 24 hours a day... this cell tower would be.

Vote: 0 to 5 against. I suspect they will take this to court. The T-mobile people kept saying that the courts would not allow us to vote no based on aesthetics or health related issues. I hope that the court looks into why they are adamant about locating in this neighborhood. Could it be that the lease agreement with the church is cheaper than co-locating with Cingular or Verizon – it would be nice if someone could find out what the church is charging to lease the property and compare that to what it would cost T-mobile to co-locate on another cell phone tower.

ZBA-55-06: RSKI, LLC petitions for variances from setbacks, open space, and maximum dwelling unit density for an existing apartment complex at 120 15th street East. Zoned RMF-1. (council district 4 – map: <http://www.tuscaloosaneighborhoods.org/pdf/District4.pdf>)

Issue: The Regency Oaks Apartments are behind the Wendy's on 15th street. They are going to be upgraded into condos. There are currently 68 apartment units. They should have 136 parking spaces but they only have 132. They should also have 420K square feet of open space but they have significantly less than that. There are no plans to expand the current building size. It did not sound as though they have any way of increasing the green space or parking.

Opposition from the floor: None

Vote: 4 to 1 in favor.

ZBA-56-06: Amicus Construction, LTD petitions for special exception to allow the use of a modular building for a temporary watchman's quarters at 510 17th Street East. Zoned BN. (council district 2 – for map, see link above)

Issue: This property is part of the Midtown shopping/condo development. The site manager wants to put in a house trailer so that he can live on the site while the construction is under way. There is no thru traffic in this area anymore. When the construction is complete the trailer will come down and the property will be landscaped. The vote is based on a 1 year approval period. If the construction lasts longer than this they will have to come back for an extension.

Opposition from the floor: None

Vote: 5 to 0 in favor

ZBA-57-06: Alabama Condos, LP petitions for a special exception from the fencing requirements to allow an existing six (6) foot wrought iron fence to remain at 12 24th Avenue East. Zoned RMF-1. (council district 4 – for map, see link above)

Issues: These condos are behind DCH. There is a 6 ft wrought iron fence that must have approval to be in place.

Opposition from the floor: None

Vote: 5 to 0 in favor

ZBA-58-06: Alabama Power petitions for a special exception to allow the expansion of an existing electrical substation onto properties located at 1212 14th Street and 1312 12th Avenue. Zoned R-3. (council district 4 – for map, see link above)

Issues: The board heard a similar petition last month (see ZBA-46-06). The difference is that now Alabama Power has acquired the adjacent property. Alabama Power showed a large picture of where all of the new developments are in Tuscaloosa to try to explain why this upgrade is necessary. Alabama Power met with the OCA and other individuals in the community to address their concerns. Landscaping and fencing has been proposed. The driveway will be on 14th street – other curb cuts will be removed. There will be no storage of materials on this property. The property will meet all safety codes. This substation was built in the 1950's and has to be upgraded

Opposition from the floor: None – Robert Reynolds of the OCA spoke in **support** of the project.

Vote: 5 to 0 in favor

There were two items added at the end of the meeting.

First – the group that is building the condo on the old Mike & Ed's site needed to get a building permit within the first 90 days after the zoning adjustment was approved. It is taking some time to get all of the tenants out of the building so they would like an extension. The board is considering a one year extension to get a building permit.

Opposition from the floor: None

Vote: 5 to 0 in favor

Second – someone was given a use variance to operate a doctor's office adjacent to her home. This use variance expires on the 29th of June. This should really have been treated as a special exception variance to be consistent with the zoning ordinance. They want to change the status of this approval so that it reflects a special exception and not a use variance. This will eliminate the need to rezone the area.

Opposition from the floor: None

Vote: 5 to 0 in favor

Please excuse any errors/omissions in this report. Any that exist are my own and were unintentional.