

Zoning Board of Adjustment Report
Meeting Date: 11/26/07

(*** 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.

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. (The first item is reported out of order because we think it was most interesting.)

ZBA-78-07: Jaycees of Tuscaloosa appeal the decision of the Zoning Officer concerning the use of a metal building located on the Jaycee Park property east of and adjacent to the PARA Fairgrounds. Zoned R-3. (Council District 5)
(<http://www.tuscaloosaneighborhoods.org/Documents/Maps/District5.pdf>)

Issues: The metal building in question is next to the Boys & Girls club building on the Jaycee Property. The petitioners are appealing the Oct 16th decision made by the zoning officer regarding non-conforming use. The investigation began because of the complaints made by the homeowners who have property adjacent to the building in question. The homeowners sent a letter to the police chief, the mayor and the president of the Jaycees noting noise and other problems they have been having regarding parties held in the building. The homeowners said that in the past the building had been used for the fair and for occasional parties. However, the parties have increased in number and intensity. Cam Parsons spoke on behalf of the Jaycees. He pointed out that both structures are non-conforming. The building in question has been in use since 1965. He also said that the city had no empirical proof that there has been increased use. However, he also said that the building is rented out and is a primary source of income since the state fair had been canceled. The president of the Jaycees also said that they have rented it out more often due to their financial problems. It sounds like these statements prove that usage has increased. Cam Parsons went on to say that there has been no discontinuance of the non-conforming use since 1965... therefore, the city can't stop the Jaycees from renting out the building for parties. John Sheffield asked if Cam had signed rental agreements to prove that there was no discontinuance of use since 1965. Cam said he can provide this documentation but he was clearly unhappy about it. There was discussion about the rental agreements having set hours. The petitioner said that most agreements are from 9PM until 2AM. They have cut out Thursday parties because of the complaints. He again said that there has been increased usage over the last couple of years due to financial distress and that they rent the space at least 3 out of every 4 weekends. He said renting it out in this way was the only way to pay their bills.

Board member Louis Barnett commented that the police had come out to the property and didn't find grounds to stop the parties. He indicated that this must mean that the noise level was not above the legal limit. There was discussion about whether or not the petitioners have been saving money to pay for insulating the building. A board member said that the property was zoned R-3 since 1972. He asked Cam Parson why they had not had the property rezoned to reflect the multipurpose use of the building. Cam said there was no need to rezone because it has been in continual non-conforming use. It was at this point that Cam Parson brought up the race issue. He said that the club (the Jaycees) has gone from being all white to all black. Then there was some discussion about the city going after the Jaycees because of their race. However... it was a black woman who came forward to complain about the noise and she is the one who sent the letter to the city complaining about the improper use. As an observer... I'm not sure why the petitioners tried to make this a race issue. It was clearly a noise and nuisance issue for the adjoining neighborhood. The only reason the city became involved was because the homeowners in the adjoining neighborhood complained.

Opposition from the floor: Linda Anderson came forward as a representative of the adjoining neighborhood. Her home is directly behind the building in question. She has lived there for 16 years and has never had a problem or a need to complain until this past year. She was also speaking specifically for her neighbor, Mr. Sanders, who has lived in his home for 57 years. He is 84 and is caring for his wife who is ill. Ms. Anderson said that the noise is so loud that their windows clatter. She had a list of days when the parties were held and she noted when the parties started and stopped. Many of the parties go on until 2 AM and beyond. She also said that there were often arrests after the parties. She indicated underage drinking was an issue. She was also concerned about the possibility of gunfire. Ms. Anderson said that the Jaycees have said for over a year that they were going to insulate the building and perhaps put up some kind of a fence in order to muffle the sound. Unfortunately, they have never followed through. She said that she and her neighbors have the right to live in peace. She can't afford to move. She pointed out that many of the homes in her neighborhood are NOT rentals... they are owner occupied. She had a petition with 104 signatures on it. She noted that 23 of the people on the petition were chronically ill and the noise was negatively impacting their sleep and ultimately their health. She said that the Jaycees used to care about the community, but that they don't anymore. I'd like to note that Ms. Anderson is a black woman. The claims of racial bias don't seem reasonable given that this woman is one of the people who made the original complaint. She even said that she has no idea what the problem is with the City and the Jaycees – and she didn't care. She simply wants some peace and quiet in her neighborhood. She and her neighbors are taxpaying citizens and they should not have to leave their homes. Ms. Anderson said that this building has become a full time night club. She pointed out to the board that the Jaycees do not have approval for this type of use.

Vote: 1 to 4 against. The zoning officer decision has been upheld.

ZBA-71-07: Trinity Presbyterian Church and the Townes of North River Development petition for a Special Exception to the off-street parking requirements on lots 459 and 461 of the Townes of North River subdivision. Out of City; proposed annexation and BNS zoning. Future Council District 3)

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

Issues: This property is on the left side of the main drive going into the Townes of North River Development. Part of the property is in the city and part is in the county. The proposal is to build a 1000 seat sanctuary which would require 200 off street parking spaces. They only have room for about 90 spaces – more than a 50% reduction. However, the development has a cross access parking agreement for all businesses which means that several hundred parking spaces on the right side of the main entrance will be available to the church. The board asked many questions including some about the annexation and the hours of the church overlapping with the business and retail hours. The spokesperson for the petitioner did not have any real answers to these questions. After much discussion it was discovered that the church was NOT building the 1000 seat sanctuary any time soon. They were going to build the fellowship hall which will hold 350 people. They currently have less than 300 members. The petitioners were under the impression that they had to come forward with their long term plan (which requires the special exception) before they could begin construction of the fellowship hall. The board was concerned about approving parking for a building that won't be constructed for 5-10 years down the road. The staff wanted to see the parking agreement and restrictive covenants before voting. There was also concern that the conceptual design was not detailed enough. Bill Lunsford came forward on behalf of the church and mentioned that they wanted to do the ground breaking ceremony on Sunday. Bill Lunsford did not want the board to continue this petition until the next meeting. The board decided to vote but that any decision would be contingent on the annexation going through.

Opposition from the floor: None

Vote: 4 to 1 in favor.

ZBA-72-07: David Ford petitions for a Special Exception to allow the construction of a nine (9) foot privacy fence at 1527 – 7th Street. Zoned R-3H. (Council District 4)

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

Issues: This home is surrounded by rental properties including a two story building at the rear of the property that is rented to students. The zoning ordinance allows for an 8 ft. fence. The petitioner wants a 9 ft. fence because it gives him more privacy. The fence will be wooden. Existing fencing and chain link will be removed. The petitioner will go before the historic district committee if he receives approval for this special exception.

Opposition from the floor: None

Vote: 5 to 0 in favor.

ZBA-73-07: Wesley Burkhalter petitions for a variance from setback requirements to allow the construction of a two-family dwelling at 1151 – 13th Street. Zoned R-4U. (Council District 4)

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

Issues: This property is on the corner of 12th Avenue and 13th Street. There are currently two dwellings on this lot. Both are being torn down to make way for the new structure. The proposed building plan includes 2 new 2 family dwellings. These are larger buildings. The homes will be set back farther off of 13th street and will not be any closer to the road 12th Avenue than the old buildings were. TDOT has no problem with this. The ball and chain system will be

continued on 13th Street and around the corner on 12th Avenue. The driveways on 13th Street will be removed completely. There is a large parking area behind the buildings that are accessed from the alley.

Opposition from the floor: None

Vote: 5 to 0 in favor.

ZBA-74-07: This petition was heard at the Special Called meeting held on November 1, 2007. Chris Sentell petitions for variances from minimum setback requirements, minimum lot area standards, and minimum lot width standards to allow the resurvey of Lots 1, 2, and 3 Block D Abernathy Addition (615 30th Avenue East). Zoned R-3. (Council District 5)

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

Issues: This case was heard at a special called meeting on November 1st. Due to a staff error, it was left off of the October 22nd agenda. The petitioner wanted to resurvey a parcel of land that contained 3 old houses. He wants to change the one lot into 3 platted lots. Each home would be on its own platted lot.

Opposition from the floor: None

Vote: 5 to 0 in favor.

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 TO THE NEXT MEETING

ZBA-76-07: 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>)

Issues: 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. 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.

CONTINUED TO THE NEXT MEETING

ZBA-79-07: William Brian Jernigan petitions for a variance from setback requirements to allow the construction of an addition to an existing single family dwelling at 62 The Highlands. Zoned R-1. (Council District 5)

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

Issues: This home is on a corner lot. The current carport will be removed and replaced with an enclosed garage, storage and family living space. The setback will be 10 feet which will require a

15 foot setback variance. The setback for the addition will not be any closer to the road than the current structure. The homeowner has spoken with several neighbors and they do not have a problem with the addition. The homeowner understands that if the board approves this variance it will not override any neighborhood covenants that might exist.

Opposition from the floor: None

Vote: 5 to 0 in favor.

ZBA-80-07: Jay Biggs petitions for a Special Exception to allow a motor vehicle sales agency at 2703 McFarland Boulevard East. Zoned BN. (Council District 6)

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

Issues: This property is between Presley's Furniture store and Amanda's Weddings and Formals on McFarland Blvd. It is the small home next to the creek. This home has been used for many different businesses over the years. It has been vacant for about one year. The owner of the property, Mr. Biggs, wants to lease the property to an individual who will open a car lot. The board had a problem with the parking available for this type of business. Only 3 to 5 vehicles can be parked in the front of the building. The rest of the vehicles for sale would have to be parked in the rear which would limit their visibility from the road. The car salesman indicated that he would rotate the cars that are parked out front so that people would be able to see his inventory. There was some discussion about the 100 year flood plain. It appears that the parking area is in the flood zone. The board asked about lighting and fencing. The lighting will be improved on the lot. A solid wood fence would be erected at the rear of the property to shield the homes from this business. Hours of operation will be from approx 9 AM until 7 PM.

Opposition from the floor: Jim Presley and his son were concerned about parking. There would be no parking spaces in the front of the building for customers due to the vehicles for sale being displayed in that area. This means that the auto sales agency's customers would probably use the parking spaces in front of Presley's Furniture store. This has been a problem in the past. There simply isn't enough space to have the vehicles that will be for sale as well as employee and customer parking. A representative from Amanda's Weddings and Formals also spoke about the parking problems. Mr. Delotte is a home owner from the neighborhood that backs up to this property and he was worried about the people who drop by car lots after hours. Mr. Biggs claimed that he had as many as 18 vehicles parked on this property in the past.

Vote: 3 to 2 against.

ZBA-81-07: Larry Dunn petitions for variances from minimum lot width and area requirements to allow the resurvey of Part of Lot 16, Block 693, T.C.I. & L Company survey(2502 27th Street & 2614 25th Avenue). Zoned R-3. (Council District 2)

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

Issues: There are currently two structures on this property. Both homes are in disrepair. The petitioner wants to split the parcel into two lots so that he can sell each home separately. Each home would be on its own lot but the new lots do not meet the minimum width and area requirements. The petitioner indicated that these homes can't easily be rented. He has no plans to demolish the homes. The homes are currently vacant and will likely have to be improved in order to sell them.

Opposition from the floor: None

Vote: 4 to 1 in favor.

ZBA-82-07: Bo Harris petitions for a variance from minimum lot area requirements to allow the resurvey of Lot 8 and Part of Lot 7, Block 108, T.C.I. and L. company survey (1305 14th Avenue & 1221 13th Street). Zoned R-3 Historic District Buffer Overlay. (Council District 4)

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

Issues: There are currently two homes on this one parcel. The petitioner wants to divide the parcel into two platted lots. Each lot will have 6000 sq ft in area. Each will be 1500 sq ft short of the minimum lot area requirements. The conditions if approved would be that a chain and ball system will be added so that there will be no parking in the yard and that each lot will have 3 off street parking spaces. There is plenty of parking on the properties. The petitioner indicated that he already had a buyer for one of the homes. Splitting the lot like this will make it less likely that an apartment building can go up which was a concern of some area residents. The petitioner said that owner occupation of the homes was his goal. These homes are in good shape and he plans to sell both of them.

Opposition from the floor: None

Vote: 5 to 0 in favor.

ADDITIONAL BUSINESS

There will be no December meeting. If needed, the board will hold a meeting in early January prior to the regular January meeting.