

MINUTES OF MEETING

HOOVER BOARD OF ZONING ADJUSTMENT

Date: April 5, 2018
Time: 7:30 P.M.
Place: Hoover Municipal Center
Present: Mr. Dan Mikos
Mr. Jim Brush
Mr. Kyle Puchta
Mr. David LeCompte

Absent: Mr. Lawren Pratt
Mr. Bob Brown
Mr. Paul Gamble

Also Present: Mr. Mac Martin – City Planner
Mr. Marty Gilbert – Plans Examiner
Ms. Vanessa Bradstreet – BZA Secretary

1. CALL TO ORDER

The meeting was called to order by Mr. Mikos. The secretary had the roll call and a quorum was present. Mr. Mikos announced the voting members for this meeting would be all those present. Mr. Mikos reminded the applicants that to grant a variance, it required a super majority of the board members, requiring four affirmative board members, therefore, at tonight's meeting, all four voting members would have to vote unanimously to grant a variance. Mr. Mikos explained that if an applicant was not happy with this, they could delay their request until the next month.

2. Approval of minutes from the March 1, 2018 regular meeting and March 26, 2018, work session. Mr. Mikos asked if there were any additions or corrections to be made. There were none. Mr. Mikos asked for the minutes to be approved by acclamation.

3. BZA-0418-04 – Jeff Mitchell is requesting a variance to allow pool equipment in side yard and to be placed less than 10 feet from the property line at property located at **5614 Crossings View** in The Sanctuary at Caldwell Crossings. Mr. Mitchell is the property owner and the property is zoned PR-1 (Planned Single Family District). *Approved*

Mr. Jeff Mitchell, 5614 Crossings View, was present to represent this case. Mr. Mitchell stated he and his wife were building a swimming pool in their backyard and the most optimal place for the equipment was right around the corner on the side, which was 8 feet from the property line which was just inside the 10' required. Mr. Mitchell stated he had submitted some photos with his packet of information and did have some others to share with a quick view depicting where the equipment would go. He then proceeded to explain his photos page by page. Mr. Mitchell stated this was the optimal position due to being where the gas meter is, the electrical hook-ups are, and the equipment would be totally surrounded as far as the fence and accessed through the front and the back and would be totally enclosed. Mr. Mitchell stated the equipment was actually a little over 26 feet from the neighbor's house, so

it was a pretty good gap there. Mr. Mitchell stated his air conditioning equipment was actually two feet from the property line. Mr. Mitchell asked if there were any questions.

Mr. Mikos asked if his house was only 5 feet from the property line. Mr. Mitchell stated that the actual distance was five feet from the property line. Mr. Mikos asked if this was going to be pretty much obstructed from view. Mr. Mitchell stated they were going to put a fence around it also.

Mr. Brush asked about the 6 foot fence he planned to install. Mr. Mitchell explained his plans for the fence and keeping the equipment totally enclosed. Mr. Mitchell pointed out the letter from his neighbor next door stating they did not have a problem with the plan. Mr. Mikos asked if anyone on the BZA or audience had any other questions. There were none. Mr. Mikos asked for a motion. Mr. Brush made a motion to approve as submitted. Mr. Puchta seconded the motion. After a roll call vote, Mr. LeCompte, Mr. Brush, Mr. Puchta, and Mr. Mikos unanimously approved the variance.

4. **BZA-0418-05** – Mr. Frank J. Kruse is requesting a variance to extend addition of one foot into the ten foot required side setback for a bedroom addition at property located at **1804 Burning Tree Circle**. Mr. Frank J. Kruse is the property owner and the property is zoned R-1 (Single Family District). *Approved*

Mr. Chris Williams, 140 Keeneland Green, Pelham, AL 35124, was present to represent the property owner, Mr. Frank Kruse. Mr. Williams stated what Mr. Kruse was asking for was a variance to the 10 foot side setback for a proposed addition to the rear of his existing house. Mr. Williams stated the addition would not encroach the length of the house; it would just be the right rear corner of the proposed addition. Mr. Mikos asked if it was only 6 inches and Mr. Williams stated that was correct. Mr. Mikos pointed out the neighbors had built the fence into Mr. Kruse's property area. Mr. Williams agreed. Mr. Mikos stated if the lot had been shaped as a rectangle they wouldn't have a problem at all. Mr. Williams agreed. Mr. Mikos asked if anybody else on the BZA or the audience had any questions or comments. There were none. Mr. Mikos asked for a motion. Mr. Brush made a motion to approve as submitted. Mr. LeCompte seconded the motion. On a roll call vote, Mr. Lecompte, Mr. Brush, Mr. Puchta, and Mr. Mikos voted unanimously to grant the variance.

5. **BZA-0418-06** - Ms. Vivian Mora is requesting a variance to extend the roof 6 feet into the required 50 foot front setback for the residence at **3209 Oriole Drive**. The property is zoned E-2 (Single Family Estate District) and Ms. Vivian Mora is the property owner. *Approved*

Ms. Vivian Mora, 3209 Oriole Drive, was present to represent this variance request. Ms. Mora stated she and her family had lived at this residence since 2011 and proceeded to give some information about when the house was built (in the late 60's) and they bought in 2011. Ms. Mora stated the house needed many improvements and they had decided to do them in steps. Ms. Mora explained the hail damage from last year made them decide to start with the roof since it had a lot of water/hail damage. Ms. Mora explained that State Farm was paying for the roof and at the time when the adjuster had come out, he mentioned they had a lot of damage from the front two glass windows which were two big glass sliding doors on the second floor as there was no additional roof over it, so all the wind, hail, and sun comes straight through those windows. They already had water damage on the downstairs

level in which they had to change all the carpeting. Ms. Mora stated the last hail damage had really scared them as the wind comes straight through the glass doors.

Ms. Mora explained that now that they were getting ready to have the roof replaced, they were hoping to be able to extend just 6 feet to be able to go over the balconies that were already there. Ms. Mora stated these balconies had been there since the house was built and were grandfathered in from what Mr. Gilbert had explained to them. Ms. Mora stated they would like to have protection for those front glass doors. Ms. Mora stated they were not planning on enclosing the balconies but would like to be able to extend the roof and make sure the balconies were covered.

Mr. Mikos asked Mr. Mac Martin, City Planner, if he had explained the other problems that would be encountered with this case if they approved it. Mr. Martin stated he had not explained it yet and was glad Mr. Mikos had brought it up. Mr. Martin stated he had found two things. Mr. Martin stated the first thing was the zoning in place for the property establishes the 50 foot front yard setback in E-2 (Estate Residential District). Mr. Martin stated in addition to this, they found in their research that the plat for the property actually has a 60 ft front yard setback, so regardless of the decision made by the board tonight, they would be making a decision based on what the zoning ordinance calls for. Mr. Martin stated they would need to work with the applicant to produce a resurvey of the property. Mr. Martin added that according to AL State Law, the Planning Commission for the municipality has the sole discretion of approving anything oriented with a subdivision plat, so if a setback is included on the approved and recorded plat, it carried the same weight as zoning does. Mr. Martin reiterated that state law states that the Planning Commission had authority over that. Ms. Mora stated she understood. Mr. Martin stated there would be another step if the case were approved tonight. Mr. Martin added that city staff had reviewed this case and what she had in essence right now, especially that what she had right now was included with the original home, she essentially had covered porch area in existence for the bottom floor extending into the setback and it was existing. Mr. Martin stated when they took a look at a hardship case, the definition of a "hardship" being some physical characteristic of a property that the property owner would have to deal with, regardless of who owns the property. Mr. Martin stated it could be Ms. Mora, or anybody else, there would still be this issue. Mr. Martin stated that given these circumstances, the city staff did not see the extension of the roof creating more of an issue than what they had today since the footprint of the house remains the same. Mr. Martin explained so long as the roofline did not extend beyond the existing balconies, it was his understanding that the balconies would just be rehabilitated, not taken off. Ms. Mora answered that was correct; they were kind of rotten when they bought the house, but now, with all the additional rain and hail damage, they would have to replace them. Mr. Martin explained from the city's standpoint, if you were looking at it two dimensionally, from top down, and if the overall dimensions had not changed, they did not see an issue with granting the variance.

Mr. Brush asked if Ms. Mora had any knowledge of any previous owner had to encounter any of the same repairs as this and asked if this was the original porch. Ms. Mora answered the previous owner that sold them the house said he had to make major improvements to the deck every five to six years because of the humidity that came from the lake and elements. Ms. Mora stated she and her husband had been researching products that would last longer so

that they would not have to keep up that same kind of maintenance and hoping they would have it covered as well.

Mr. Puchta asked if they were not going to replace it with wood. Ms. Mora stated there were some synthetic options available that they had visited to make it look good, but make it so they would have less maintenance. Mr. Mikos asked if part of their lot ran up the hill behind them. Ms. Mora answered yes. Ms. Mora stated she and her husband had talked to her neighbors and they were very pleased to hear the renovation plans and had signed a form to say so.

Mr. Mikos asked if anyone else on the board or audience had any questions. There were none. Mr. Mikos asked for a motion. Mr. Brush made a motion to approve this case as submitted. Mr. Puchta seconded the motion. On a roll call vote, Mr. LeCompte, Mr. Brush, Mr. Puchta, and Mr. Mikos unanimously approved the variance request.

6. **BZA-0418-07** - Ms. Deana Seufferling is requesting a variance to construct a garage addition 8 feet into the required 10 foot side setback at property located at **2526 Woodfern Circle**. Mr. Jon Creasey is the property owner and the property is zoned PR-1(Planned Single Family District). ***DENIED***

Mr. Roger Seufferling, 458 Founders Park Drive East, was present to represent this case. Mr. Seufferling stated he and his wife have had an interest in moving to Riverchase the last couple of years and after searching and looking at several years, they found this beautiful home that met their needs and were really excited about it. Mr. Seufferling stated that unfortunately this home had only a two car garage and with their two children getting close to the age they were going to have cars, they felt they would like to put those cars in the garages, so they told the property owner that their purchase of the property was contingent upon them obtaining approval to extend the garage.

Mr. Mikos stated he had been on the board for 15 years and stated the BZA did not normally grant a variance that would be within 2 feet of his neighbors' property line. Mr. Mikos stated that a foot or 6 inches, they normally tried to work with people, but this was a pretty big variance request. Mr. Mikos added he knew they submitted an alternate plan that did not require a variance. Mr. Mikos asked if there was a reason they had decided to not go with that one. Mr. Seufferling stated he had three concerns with that option. Mr. Seufferling stated that one of them was fairly minor, with aesthetics, as for the option that they were seeking approval on, the addition would be straight out from the existing garage rather than an angle; the second concern was they would lose 2 ft 9 inches of depth pulling into the garage; and the third one was he was concerned about what the potential cost might be as opposed to just adding on as it would be adding an angle and trying to tie in to the roof line at an angle to the existing structure.

Mr. Mikos asked if anyone in the audience would like to speak about this request.

Mr. David Latham, 2530 Woodfern Circle, stepped to the podium to speak about this case. He stated he was the next door neighbor and had several photos he wanted to share from his and his wife's point of view. He had several photos that he shared with the BZA board members and explained each one.

Mr. Latham pointed out that several of the large trees on the lot would have to be removed if the variance was granted. Mr. Mikos asked if Mr. Latham had stepped off how far the request was from his driveway. Mr. Latham stated that his driveway was just on the other side of the bushes in the pictures so it was probably within 5 feet of the bushes and so it would only be another foot or two on the other side of the bushes.

Mr. Latham stated they had moved to Riverchase from California 12 years ago and the main thing they were interested in was having a large lot where they didn't walk outside and see their neighbor's house right next to their driveway, so they felt like they were in the same boat.

Mr. Mikos asked if there was anyone else in the audience that wanted to comment about this case. Nobody raised their hand.

Mr. Martin addressed Mr. Mikos to ask a question. He asked that the city staff was wondering if the neighbors were notified when the ARC was going to make a ruling on this case, in which they had made a positive ruling. Mr. Latham answered they had NOT notified them and after speaking to the chair of that committee, was told that this was generally their policy and did not have open meetings and did most of their work by e-mail. Mr. Latham stated that he had heard that the proposed new buyers were not allowed to interact with that committee either.

Mr. Martin stated he had heard this about other ARC's and found that a little disturbing. Mr. Martin stated some other city comments about this case were they were finding it difficult to find a hardship on this property that would justify the variance to be granted, particularly, since there are other options that had been worked out as the property is sufficient enough to accommodate the other layouts. Mr. Martin stated city staff would recommend against approval of this variance.

Mr. LeCompte asked if there was no variance required for Plan B. Mr. Mikos answered that was correct. Mr. Mikos asked if anybody else on the board had any further questions or comments. There were none.

Mr. Mikos asked Mr. Seufferling had any further comments. Mr. Seufferling stated he had just met the Latham's for the first time a couple of hours earlier and wanted to make sure he got off on the right foot with the new neighbors.

Mr. Mikos asked for a motion. Mr. Brush made a motion to approve this variance request. Mr. Puchta seconded the motion. Mr. LeCompte, Mr. Brush, Mr. Puchta, and Mr. Mikos voted "naye" unanimously. The motion was denied.

- 7. BZA-0418-08** – Mr. Mark Edmondson, C&E Real Estate, LLC, representing owners, Eric and Chris Sullivan, is requesting a variance to allow a covered front porch to extend into the front yard setback at property located at **2058 Wildflower Drive** in Riverchase. Eric and Chris Sullivan are the property owners and the property is zoned PR-1 (Planned Single Family District). (**Approved administratively**)

Mr. Eric and Chris Sullivan, 2058 Wildflower Drive, were present to represent this case. Mr. Mac Martin, City Planner, stated he would like to interject some comments regarding this variance request. Mr. Martin stated that city staff had reviewed some additional information related to this case and it appeared that both the house to the left and the right of the subject house were closer to the right-of-way than the existing house that was subject of this case. Mr. Martin stated it appeared that the resident, after looking at some of the ancillary information received, particularly to the right of this home, extends close to the same distance to the right-of-way as the home would even after the proposed porch is placed on the site, so, city staff found in the zoning ordinance where there is flexibility to be granted through zoning administration that front yard setbacks may be adjusted if homes along the same side of the street have different setbacks, so it was in their judgement, based on information submitted, that it appeared the porch could be approved administratively based on the setbacks of the adjacent homes and did not require a variance. Mr. Martin stated they had been unaware of this information with the original submittal to the building department and for the variance case; therefore, it appeared this could be handled administratively without a variance.

With no further business, the meeting was adjourned.

Vanessa Bradstreet
Zoning Assistant