

MINUTES OF MEETING

HOOVER BOARD OF ZONING ADJUSTMENT

Date: June 7, 2018
Time: 7:30 P.M.
Place: Hoover Municipal Center
Present: Mr. Dan Mikos
Mr. Jim Brush
Mr. Kyle Puchta
Mr. Lawren Pratt

Absent: Mr. Paul Gamble
Mr. David LeCompte

Also Present: Mr. Mac Martin – City Planner
Ms. Vanessa Bradstreet – Zoning Assistant

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 would like, they could continue their request until the next month.

2. Approval of minutes from the April 23, and May 29, 2018, work sessions. 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-0618-10 – Dustin & Lindsay Dabney are requesting a 380 square foot variance to construct a pool structure at property located at **2036 Crest Lane**. Mr. & Mrs. Dabney are the property owners and the property is zoned R-1 (Single Family Residential District).
DENIED

Mr. and Mrs. Dustin Dabney, 2036 Crest Lane, were present to represent their case. Mr. Mikos asked them to give an overview of their requested variance.

Mr. Dabney explained they were going to put a pool in their backyard, and due to the building he had built in his backyard, apparently it took up a bit more square footage than was allowed when trying to locate the pool structure.

Ms. Dabney added they really wanted the pool for their family as this was going to be their forever home. She stated it would be private in the back and nobody could see it.

Mr. Mikos asked if someone would like to start with some questions. Mr. Kyle Puchta stated this was a pretty large variance they were requesting and this board typically did not approve variances this large to his recollection.

Mr. Puchta asked Mr. & Mrs. Dabney if there had been any thought of reducing the size of the pool to try to get it a little closer to a more reasonable number. Mrs. Dabney stated the pool was already built and Mr. Dabney stated they had already put a down payment back in October with the pool company. Mr. Puchta asked if the pool company had ever said anything. Mr. Dabney responded no. Mr. Dabney added the size of his yard was a lot larger than the standard R-1 lot and as they could see, there was a lot of square footage there.

Mr. Mikos asked Mac Martin, City Planner, on how they determined the square footage. Mr. Martin explained how the Zoning Ordinance determines the size of the available space for an accessory building was that it takes the rear yard that is described in the ordinance, so not necessarily property specific but to take the required rear yard setback and it is a percentage of that total rear yard setback. Mr. Martin explained that is why in cases they have seen across the city, regardless of the overall dimensions of a particular piece of property, the rule in the zoning ordinance is that it is based off of whatever square footage total is within that rear yard setback required by the ordinance rather than defining it as a percentage of whatever space is between the rear of the home and the rear property boundary. Mr. Martin stated that is where the city sits presently with how the zoning ordinance calculates and tabulates the amount of accessory structure you could have.

Mr. Mikos then explained that the state law tasks the Board of Zoning Adjustment with approving variances when there is a hardship and that could be the elevation of the property and sometimes setbacks and other topographical issues that this board would have to consider. Mr. Mikos stated they had to look at each case to see where the hardship was involved.

Mr. Mikos stated they had looked at this property and really did not see a hardship there, only that they were over the numbers allowed by the zoning ordinance.

Mr. Dabney asked if there might be a way they could tie his building to his house and make it work. Mr. Mikos asked if he could build a cover from his house over to his garage. Mr. Martin answered based on the drawing that he has seen for the case, he may have an issue if he was somehow able to tie the two together, it would become part of the primary structure on the site, and thus was subject all of the setback requirements for the primary principal building. Mr. Martin stated this case, it appeared that the existing garage was 20' from the rear property boundary and in examining the zoning ordinance, the required rear setback in the R-1 District was 35 feet. Mr. Martin stated he did not see that as being a possibility.

Mr. Martin explained one thing that the city had been contemplating and wasn't sure this would take place, but if they were able to make some changes to the Zoning Ordinance, he stated that this is one of the changes they had been contemplating and was on a list. Mr. Martin also added that he didn't know when the city would propose that change and he did not have the answer to that, but that issue was one that could possibly be coming down the pike in the near future. Mr. Mikos added this was the third case the BZA had had like this in the past year to year and a half.

Mr. Dabney asked if there was a way to ask for less square footage and get that approved at this meeting. Mr. Mikos answered in this case, they probably needed to just come back to this board and see what the request would be.

Mr. Mikos emphasized again that this board was tasked with granting a variance when it involved a hardship.

Mr. Mikos asked if anybody else in the audience would like to speak about this request. Mr. Stan Derencin, 544 Park Avenue, spoke in opposition to this request as he blamed the Dabney's yard and long driveway for many of his water problems at his home.

Mr. Mikos asked if anyone else in the audience wished to speak about this request. Nobody raised their hand. Mr. Mikos asked for a motion. Mr. Lawren Pratt made a motion to approve **BZA-0618-10** as submitted. Mr. Puchta seconded the motion. With a roll call vote, Mr. Pratt, Mr. Brush, Mr. Puchta, and Mr. Puchta all voted "naye". Mr. Mikos stated the request had been denied.

- BZA-0618-11** – Skylar Jones, Carlson Consulting Engineers, Inc., representing RW Unlimited, LLC, is requesting to allow setback and landscaping variances be granted for property located at **1539 and 1541 Montgomery Highway**. The developer, Orange Development, is proposing to demolish the buildings presently at the aforementioned addresses and construct a new business. The applicant is requesting setback variances to permit building up to the property boundary on the Hwy 31 side, to build to 12 feet from the property boundary on the Lorna Road side, and a reduction in total on premise and perimeter landscaping. RW Unlimited, LLC is the property owner. The properties are zoned as follows: 1539 Montgomery Highway is zoned C-3 (General Business District) and 1541 Montgomery Highway is zoned C-2 (Community Business District).
APPROVED

Mr. Skylar Jones, Carlson Consulting Engineers, Inc., 7068 Ledgestone Commons, Bartlett, TN, 38133, was present to represent this case. Mr. Jones then proceeded to present a power Point presentation of the plan for an indoor softball/baseball training academy and would be developed by Orange Development. Mr. Jones went over the sites and mentioned that 1543 Montgomery Highway was a potential expansion which would be a separate variance request down the road.

Mr. Jones stated the building would be approximately 15,000 square feet. Mr. Jones stated it would consist of 8 batting and pitching cages, 2 golfing simulators, an event room, an equipment shop and some restrooms. Mr. Jones stated there were two proposed driveways from Montgomery Highway that would provide access to the parking lot. Mr. Jones stated this parking lot would consist of 36 spaces and 2 bike racks.

Mr. Jones then showed the building plan showing how everything would be laid out. Mr. Jones then brought out the site plan and discussed it in full detail. Mr. Jones stated that because their site was located between two street frontages, there was a 50 foot building setback along each road both Lorna Road and Montgomery Highway.

Mr. Jones stated they were requesting a 50 ft setback variance along Montgomery Highway which would completely eliminate that existing setback and they also were requesting a 38 foot setback variance along Lorna Road. Mr. Jones added along with their setback variance requests, they were also requesting a reduction in the landscaping and this was because the landscaping requirements in the ordinance could not be met and still provide them sufficient parking to the site. Mr. Jones stated any existing trees there would probably be removed, although they would try to save as many as they could. Mr. Jones then showed a conceptual landscape plan to show how the site could be planted. Mr. Jones then described the various species of plants to be planted which were ones listed in the Zoning Ordinance. Mr. Jones added the area in front of the property would be sodded and a small amount of shrubs would be following the right of way all the way up to Montgomery Highway.

Mr. Jones stated that Ms. Sharon Nelson, Landscape Architect for the City of Hoover, had been working with them to develop their landscape plan for this area. Mr. Jones stated they were more than willing to put those out there, but they did have to get approval from the state and the electrical companies as well and they would be willing to work around that.

Mr. Jones then pointed out four main hardships affecting this property. Mr. Jones stated the first one was the right-of-way with Montgomery Hwy. Mr. Jones stated over time this right-of-way had just been growing a little more and more reducing the size of these lots and right now, there was 120' right of way from the center line and all the way up to their property line and was taking up a big area of land right now in front of their proposed building making it a little more difficult to design anything in there.

Mr. Jones stated the second hardship was the existing topography on site. Mr. Jones explained there was a 20' elevation difference from Montgomery Highway to Lorna Road making the site extremely difficult to develop anything on. Mr. Jones stated there was going to have to be some drastic on-site grading and along with construction of a couple of retaining walls just so they could do something at this site.

Mr. Jones stated the two lots in question combined for a total of almost one total acre in area but the geometry of these lots was another one of the hardships. Mr. Jones explained the site was approximately 350 feet long but was only 112 feet wide at the midpoint and as they could see, got smaller as you went more toward the west, but these lot dimensions made the challenge to construction a reasonable size in building a parking lot.

Mr. Jones stated not only was there unique lot dimensions, but as he mentioned earlier, this site is located between the two street frontages, but the street frontages with the 50 foot setbacks makes it difficult to develop anything without a 50' setback variance. Mr. Jones pointed out that the existing buildings were already protruding into the setback in question. So, to sum it up, they had the driveway at Montgomery Highway, the existing topography, the unique lot conditions, and the site being located between two frontages making this almost impossible to develop anything without the building setback variance and the reduction in the landscape as well. Mr. Jones stated he would be happy to answer any questions.

Mr. Pratt asked Mr. Jones if he had any idea what the impervious vs. pervious square footage was pre-development and post development. Mr. Jones answered that was calculated but he didn't have that number calculated in his head and didn't want to guess and be wrong. Mr. Jones stated it was not a big drastic change.

Mr. Pratt said Mr. Jones had mentioned in his presentation of the possibility of pulling in the third property to the south sometime in the future and requesting a variance sometime in the future. Mr. Pratt asked Mr. Jones if he had any feel for what that variance request would be for that parcel.

Mr. Jones asked Mr. Don Phizer, Orange Development, 1200 Corporate Drive, Birmingham, AL, to speak about this question. Mr. Phizer stated that because of the lease termination agreement with the tenants that were out there, that really couldn't say at this time, but would think that would take place in the next 18 months.

Mr. Puchta asked about the parking being expanded. Mr. Phizer answered they would expand the building further to the south as you go south on Hwy 31 to expand the area to do an indoor infield so they could do actual training, base running, and such. Mr. Puchta asked if there was possibility of any parking being added. Mr. Phizer answered possibly, but not many. Mr. Phizer said they had worked through with Mac Martin, City Planner, and talked about the square footage and they were talking about the parking that would be required based on the zoning and spaces they were providing.

Mr. Mac Martin, City Planner, added their ability to count the parking on the front side of the building since it was not in the right of way, for Hwy 31 allowed them to expand the number of spaces that could legally be placed on the lot.

Mr. Puchta asked if they owned the property where the pawn shop was already. Mr. Phizer answered they did not own it, but were obligated. Mr. Pratt asked just so he could understand, was their intent in the future to demolish the pawn shop and expand the training facility. Mr. Phizer answered how they would engineer the building, pre-engineered metal facility with an upgraded facade, they would make sure from an engineering standpoint that it could be attached and expanded to the south in the future.

Mr. Pratt stated he had a general question from the slide presentation that was presented. Mr. Pratt asked if that presentation would be available for the city at some point. Mr. Skylar Jones answered he could send a copy over for Mac Martin, City Planner.

Mr. Phizer added too that they had a meeting scheduled to sit down and talk to ALDOT very soon.

Mr. Mikos asked if there was anyone in the audience who would like to speak to this request Nobody in the audience raised their hand. Mr. Mac Martin added that the city was in favor of granting the variances that had been listed. Mr. Martin stated the city concurred with the developer that the site is physically challenged and there were a number of physical hardships to the site.

Mr. Martin stated they would recommend approval. Mr. Martin said of the variances, specifically with the landscaping, that the concept that the Landscape Architect had stated would be the minimum landscaping on the site subject to ALDOT and AL Power Co. approval.

Mr. Mikos asked for a motion. Mr. Pratt added that Birmingham Water Works Board would be

another approval subject to all approvals. Mr. Pratt made a motion to approve zoning case BZA-0618-11 subject to the applicants' gaining approval from the city, ALDOT, and various approval agencies with the understanding that they would approve the concept only, but not the actual site plan, because it would still need to be vetted. Mr. Puchta seconded the motion.

After a roll call vote, the motion was approved unanimously.

With no further business, the meeting was adjourned.

Vanessa Bradstreet
Zoning Assistant